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Ontario Legislative Assembly. Select
Committee on the New Ontario Hydro
Building

Hearings . v. 5. June 28 - July 4, 1973 (34)

Vol 5

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Thursday, June 28, 1973

Morning session

805-830

APPEARANCES

Committee members:



J.N. Allan

J.E. Bullbrook

I. Deans

M. Gaunt

L.C. Henderson

R.G. Hodgson

W. Hodgson

J.P. MacBeth (Chairman)

W. Newman

J.A. Renwick

G.W. Walker

Clerk of the committee:

Paul Moore

Committee counsel:

R.E. Shibley, QC

Ontario Hydro counsel:

Pierre Genest, QC

James McCallum, QC

Canada Square Counsel:

Douglas Laidlaw, QC

Blair Cowper-Smith

Counsel for J.W. Manthorpe and Gerald McAuliffe:

E.M. Lane

Counsel for J.D. Smith, Mrs. A.M. Shuttleworth and D.V. Grant:

John Brownlie

Counsel for J.B. Cronyn:

J.B. Eberle, QC

Secretary to J.D. Smith:

Mrs. A.M. Shuttleworth

Secretary-treasurer, Ellis-Don Ltd.?

D.V. Grant

Senior vice-president, John Labatt Ltd.:

J.B. Cronyn

LEGISLATURE OF ONTARIO
SELECT COMMITTEE - HYDRO HEADQUARTERS

H-805-1

June 28, 1973
10.10-10.15 am
V.H.

The committee met at 10.10 o'clock, @ a.m. in the members' board room.

Mr. Chairman: On the authority of Mr. James Allan I announce that there is a quorum.

Mr. Renwick: Mr. Chairman, could we ask any of the counsel that are here to introduce themselves, that we don't know.

Mr. Chairman: Yes, ~~you asked me about that~~ the other day, Mr. Renwick. I wasn't sure. I wonder if there are any counsel at the counsel here other than ~~at the counsel~~ table. Perhaps you ~~might~~ at the table introduce yourselves again. Mr. Brownlie first, representing Mr. Smith of Ellis-Don. I don't know whether you represent Mrs. Shuttleworth as well do you?

Mr. Brownlie: Yes, I do.

Mr. Chairman: All right. Your name sir?

Mr. Cowper-Smith: I am Blair Cowper-Smith representing Canada Square.

Mr. Chairman: That's what I thought. Are you a solicitor, a lawyer?

Mr. Cowper-Smith: Yes.

Mr. Chairman: Let me have your name again.

Mr. Cowper-Smith: ~~It's Cowper-Smith~~, C. C. W. Smith

Mr. Chairman: Cowper hyphen Smith?

Mr. Cowper-Smith: Yes.

Mr. Chairman: All right. Mr. Lane, of course, we met the other day. Does that satisfy your enquiry Mr. Renwick?

Mr. Renwick: Yes. Thank you.

Mr. Bullbrook: Who are you acting for Mr. Renwick?

Mr. Renwick: ~~Frankly, we want to know who the old boy is!~~

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Mr. Chairman: Mr. Shibley, back to you.

Mr. Shibley: Thanks. I believe we left off yesterday, Mr. Chairman, with Mr. Bullbrook about to embark on an expression of his intentions respecting this witness.

Mr. Bullbrook: I think I used at that time the word desire! And I don't want to withdraw that word!

I want to, Mrs. Shuttleworth, if I may, just to refresh my understanding of your examination responses to our counsel. When Mr. McAuliffe on leaving the company of Mr. Smith, was leaving rather, you heard Mr. Smith make the comment that you had testified to previously, and I believe you characterized your reaction as one of astonishment, although that might not have been your particular word. Is that correct?

Mrs. Shuttleworth: Yes, that is correct.

Mr. Bullbrook: And I understood your astonishment resulted from the fact that you hadn't heard from Mr. Smith any comment during discussions with him, that would support in any way the comment that he made to Mr. McAuliffe.

Mrs. Shuttleworth: That is very true, yes.

Mr. Bullbrook: Am I correct then in assuming from that that you had considerable discussion with Mr. Smith about this contract during the course of the months that he was interested in it?

Mrs. Shuttleworth: Yes.

Mr. Bullbrook: Now I want you, if you could to help me, I want to speed the matter up because I would presume that being in day-to-day contact with Mr. Smith, your president, that there might have been considerable discussions about this matter. Can you ~~recall~~ recall when approximately, if at all, Mr. Smith first became concerned that the contest in connection with the proposals might not be entirely fair in the judgement that was being made by Hydro?

Mrs. Shuttleworth: I believe he first became concerned whether early February, he ~~had~~ heard the rumour that they were celebrating at Canada Square ~~was~~

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Mr. Shibley: We can't hear the witness.

Mr. Bullbrook: She responds that she believes that Mr. Smith first became concerned about the fairness of dealings at Hydro subsequent to the rumour that he had heard. Am I correct -- that Mr. Smith had heard in February. Am I correct then that resulted from the and is this to your knowledge that that resulted from the conversation with Mr. Tamblyn?

Mrs. Shuttleworth: Yes, that's right.

Mr. Bullbrook: At that time, did you have a discussion with Mr. Smith or did he impart to you any information about that dinner meeting and what Mr. Tamblyn had said to him?

Mrs. Shuttleworth: He had imparted Mr. Tamblyn's statement to that effect and how it concerned him, especially in the light of the fact that our proposal had only been submitted a short period beforehand and that we had heard nothing from Hydro in regard to it as far as further discussions at the time.

Mr. Bullbrook: Now elaborating on that if you can to the best of your recollection, ^{do} you recall what discussion -- what Mr. Smith said in connection with the possibility of Canada Square having an advantage over Ellis-Don?

Mrs. Shuttleworth: My recollection is that he would be concerned as to why they, as opposed ~~me~~ to any of the other developers, may have had positive response from Hydro.

Mr. Bullbrook: So can you recall, again to the best of your recollection at this time, whether Mr. Smith at that time, in February or shortly thereafter, speculated as to why Canada Square might be getting preferential treatment?

~~Mrs. Shuttleworth: I don't believe immediately at that time. No.~~

~~Mr. Bullbrook: I don't believe I am correct~~

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10:15-10:20 am

C.B.

~~(Mr. Bullbrook)~~

~~speculated as to why Cambridge Square might~~

Mrs. Shuttleworth: I don't believe immediately at that time, no.

Mr. Bullbrook: All right. Now, would I be correct in presuming that sometime during the course of your discussions Mr. Smith referred to Mr. Moog?

Mrs. Shuttleworth: Yes.

Mr. Bullbrook: Right; and I'm wondering if you could help me approximately when that first comment about Mr. Moog might have taken place?

Mrs. Shuttleworth: Are you asking about any particular comment or simply comment on the fact that Mr. Moog

Mr. Bullbrook: My problem is, Mr. ~~Mr.~~ Chairman, I would recognize, as I presume that Mrs. Shuttleworth and Mr. Smith would have had considerable ~~an~~ amount of discussion over the months, and it would be unfair of me to attempt to pinpoint every discussion, although you, being of the talent that you are, you might well be able to pinpoint them. But it would take too much time. I am interested now in ascertaining approximately when Mr. Smith mentioned Mr. Moog to you?

Mrs. Shuttleworth: I'm sure he would have mentioned Mr. Moog at the time we were sub~~mi~~tt~~ing~~ our proposal. He was, after^{all}, one of the other developers, the president of a firm who was submitting another proposal.

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10:15 - 10:20 am

C 2.

Mr. Bullbrook: Right. Now, when, if ever, did Mr. Moog....

Mr. Shibley: Excuse me, Mr. Bullbrook; there are a number of people in this room having a great deal of difficulty hearing the responses of this witness.

Mrs. Shuttleworth: I'll try and speak louder
Mr. Shibley.

Mr. Shibley: Would you pull the mike a little.....

Mr. Chairman: Just pretend that you are still talking to Mr. Shibley rather than Mr. Bullbrook.

Mr. Shibley: Pull the mike a little closer to you if you would please.

Mr. Chairman: They were having trouble hearing you yesterday, it is the tete-tete you have going in the corner ~~there~~ there.

Mrs. Shuttleworth: I'm sorry Mr. Chairman.

Mr. Shibley: Thank you.

Mr. Brownlie: I advised her against that too.

Mr. Bullbrook: I'm getting all the disadvantages and none of the advantages of this relationship that's developed. Mrs. Shuttleworth, can you recall when, if at all, Mr. Smith talked about the friendship between Mr. Moog and Premier Davis?

Mrs. Shuttleworth: As I indicated to Mr. Shibley yesterday it would be some months after our proposal had been submitted but before the summer.

Mr. Bullbrook: Did Mr. Smith ever allude to you that the friendship might have been a motivating force in his inability to secure fair treatment from Hydro?

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10:15-10:20 am

C.B.

Mrs. Shuttleworth: Yes it was a consideration of his, yes.

Mr. Bullbrook: I wonder if you could help us in telling us what he said in that respect?

Mrs. Shuttleworth: No, I'm afraid I can't.

Mr. Bullbrook: No. Would I be correct in assuming that Mr. Smith might have commented that influence was being brought to bear to the advantage of Canada Square?

Mrs. Shuttleworth: That seems like a fair comment, yes.

Mr. Bullbrook: Can you help me specifically as to elaborating upon what influences Canada Square might have?

Mrs. Shuttleworth: Those influences that might have been brought to bear would have been a relationship with someone within the government, such as Mr. Davis.

Mr. Bullbrook: Did Mr. Smith ever convey to you a thought that it might be advantageous for him to undertake some influence on behalf of Ellis-Don Limited?

Mrs. Shuttleworth: No.

Mr. Bullbrook: He didn't.

Mrs. Shuttleworth: No, he would have contacted people who could give him advice so that he could react. He does things on his own as often as he can. He doesn't let other people do them for him. That's his manner of business.

Mr. Bullbrook: Did he ever discuss with you the possibility of communicating with Mr. White?

Mrs. Shuttleworth: He mentioned it in a memo, very briefly, before he left for Hawaii. To the best of my knowledge he never did, in fact, contact Mr. White, nor did anyone in our firm.

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C.B.

Mr. Bullbrook: Other than the memo, did he speak to you about the possibility of contacting Mr. White?

Mrs. Shuttleworth: Only in the period preceeding the memo, in discussing the thoughts that he would put into his vice president Mr. Bayley.

Mr. Bullbrook: What was his purpose in contacting Mr. White? To the best of your knowledge.

Mrs. Shuttleworth: Mr. White is a member in London although not of the London which is the...he's in north or south and we are in the other. 



H807 to follow

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DT

(Mrs. Shuttleworth)

He has been in government longer than Mr. Walker, our other member. He probably assumed that Mr. White might be able to direct him as to how to proceed in getting a proper hearing with the Hydro people.

Mr. Bullbrook: So your evidence is that that was the intention of Mr. Smith to your knowledge?

Mrs. Shuttleworth: Yes.

Mr. Bullbrook: To secure an interview? With Hydro?

Mrs. Shuttleworth: Yes.

Mr. Bullbrook: I want to refer to exhibit 175. You typed this out. This is the letter of July 14 to Mr. Cronyn. I just generally want to discuss it. Do I take it that this was dictated personally to you or was ~~this~~ a dictating instrument used?

Mrs. Shuttleworth: Dictated personally.

Mr. Bullbrook: Dictated personally. Was there any discussion between you and Mr. Smith at the time, any collateral discussion?

Mrs. Shuttleworth: I don't believe so. I think that it was a fairly encompassing letter that started from day one. It was matters that I already knew. I do not recall any extra conversation on it, other than the fact that he had not been in touch with Mr. Cronyn for some time and ~~we~~ ^{at} thought that perhaps ~~that~~ ^{at} this point in time he should ask him for his advice, in light of the fact that he ~~a~~ had spoken to Mr. Barnicke.

Mr. Bullbrook: Were you aware that he had spoken to Mr. Barnicke before he dictated the last paragraph to you?

Mrs. Shuttleworth: Yes.

Mr. Bullbrook: And had he discussed his intentions in communicating with Mr. Barnicke?

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Mrs. Shuttleworth: I knew that he intended to call

Mr. Barnicke in respect to the management area. As you know, we had gone in with Sifton. We had had the word from Hydro that they didn't care for that so then we made the decision to go it alone. We thought that in doing that, ^{and} our experience in the past was not extensive, perhaps we should get someone who was more talented in that field as an alternate partner. It might give us a better standing in the consideration of our proposal.

Mr. Bullbrook: Had you had experience with Mr. Barnicke's company before?

Mrs. Shuttleworth: No.

Mr. Bullbrook: Are you able to tell us from your discussion with Mr. Smith why, if ~~anyway~~ at all, he felt that Mr. Barnicke was more knowledgeable than Sifton, with whom you had done considerable business, I take it, before?

Mrs. Shuttleworth: Mr. Barnicke was from the Toronto area. I had never heard of him before until Mr. Smith mentioned that he was calling -- he intended to call him in that regard.

Mr. Bullbrook: ^{Did} ~~Had~~ Mr. Smith at any time mention ~~connections that~~ any political ~~connections that~~ Mr. Barnicke had?

Mrs. Shuttleworth: No, he didn't.

Mr. Bullbrook: I want to ask just a few questions about discussions that you might have heard or been present at between Mr. Cronyn and Mr. Smith. In fact, were you present at any time when the Hydro project was discussed between Mr. Cronyn and Mr. Smith?

Mrs. Shuttleworth: Yes, I was present at one phone conversation.

Mr. Bullbrook: I take it that Mr. Smith was on the phone --

Mrs. Shuttleworth: To Mr. Cronyn.

Mr. Bullbrook: ^{purportedly} -- talking to Mr. Cronyn?

Mrs. Shuttleworth: Yes, I placed the call.

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Mr. Bullbrook: You placed the call, and when was that?

Mrs. Shuttleworth: It was in February.

Mr. Bullbrook: In February?

Mrs. Shuttleworth: Right.

Mr. Bullbrook: Would it be after the 17th of February? Would it be after Mr. --

Mrs. Shuttleworth: It was after Mr. Tamblyn's dinner.

Mr. Bullbrook: Would I be correct in assuming that Mr. Smith conveyed to Mr. Cronyn his displeasure at the information that he received from Mr. Tamblyn?

Mrs. Shuttleworth: He would have expressed concern and surprise, tinged with displeasure, yes, but there was no fact or no proof or no actual knowledge that because ~~the~~

(808 to folbw)

H-808-1

(Mrs. Shuttleworth)

~~with daylight was, but I believe there was no~~
~~actual knowledge that they were celebrating necessarily~~
referred to this contract, but it was definitely a major suspicion.

Mr. Bullbrook: Can you recall if Mr. Moog's name was mentioned by Mr. Smith?

Mrs. Shuttleworth: Yes, I believe it was.

Mr. Bullbrook: Was the friendship between Mr. Davis and Mr. Moog mentioned in that conversation?

Mrs. Shuttleworth: No, it wasn't.

Mr. Bullbrook: In what context was Mr. Moog's name mentioned?

Mrs. Shuttleworth: In the context of Moog and his people ~~and~~ ^{at} Canada Square, or to that effect. One generally associates the president of a company and his company in a similar phrase.

Mr. Bullbrook: Then to the best of your recollection was the discussion ~~was~~ not a discussion of influence, but a discussion of a competitor?

Mrs. Shuttleworth: Yes, ^{well}, competitor tinged with the first thoughts that he may be a competitor with an unfair lead.

An unfair lead.
Mr. Bullbrook: Was there anything said by Mr. Smith on that occasion that might have intimated to Mr. Conyn what the reason for the unfair lead was?

Mrs. Shuttleworth: I would say that within government circles if ~~some~~ someone had the edge over you you would assume it was through some form of influence, would you not?

Mr. Bullbrook: I certainly would.

Mrs. Shuttleworth: So would I.

Mr. Bullbrook: Was there any discussion at that time that you can recall that substantiated that inference on your part and mine?

Mrs. Shuttleworth: I can't recall any specific statement. I think it might have been an understood thing, if you are saying someone ~~is~~ may have an inside track there is a possibility of

H-808-2

(Mrs. Shuttleworth)

this, there is some political reason for it, but that reason was not identified because we did not know it.

Mr. Bullbrook: At that time?

Mrs. Shuttleworth: That's right.

Mr. Bullbrook: And you weren't present at any other time where Mr. Smith discussed the matter with Mr. Cronyn?

Mrs. Shuttleworth: No, I wasn't.

Mr. Bullbrook: One last question. In connection with, again exhibit 175, if you would refer to page 1, the address page, and it is the third sentence I would like to read;

"He did mention that they liked to deal with someone who had previous experience with the government (who was obviously Moog) and who also had previous experience in management."

Now referring to the phrase "with someone who had previous experience with the government," did Mr. Smith make any comment to you about what he meant there?

Mrs. Shuttleworth: Yes, he did.

Mr. Bullbrook: What did he say to you?

Mrs. Shuttleworth: He told me that Mr. Moog had done the very large contract with the government on the OISE building. He commented to the effect that if Mr. Moog did that building, and he did this very large one, pretty soon there would be no one who had experience for the government except Mr. Moog.

Mr. Bullbrook: That is a line of logic that you can't take issue with.

Mrs. Shuttleworth: I can't.

Mr. Bullbrook: Thank you, Mr. Chairman.

Mr. Chairman: Mr. Shibley:

Mr. Shibley: Mrs. Shuttleworth, I'd like to clear up something that developed from Mr. Bullbrook's questioning.

Do I take it that the inference that there was influence available to Mr. Moog which was assisting him in respect of this contract was based upon the selfsame evidence that we have had tendered before this committee and no other?

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CA

H-808-3

Mrs. Shuttleworth: I'm sorry, you'd better repeat that,
I'm having trouble hearing you.

~~Mr. Shirley: You're! You indicated to me that~~

~~the report is a duplicate of the one that was sent to me.~~

H-809-1 follows

June 28th, 1973

10.30 - 10.35 am

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AA

(Mr. Shibley)

Mr. Ballbrook that there was some discussion between yourself and Mr. Smith that political influence had entered into the allocation of the contract to Mr. Moog.

Mrs. Shuttleworth: That it may have, yes!

Mr. Shibley: That was a conclusion drawn by Mr. Smith, and perhaps yourself, based on the circumstances surrounding the letting of the contract, is that correct?

Mrs. Shuttleworth: Yes.

Mr. Shibley: It was not based on any direct evidence or observation of some document, or overhearing of some statement, as such, which led you to reach that conclusion.

Mrs. Shuttleworth: Yes, that's right.

Mr. Shibley: It's a case of ~~circumstantial~~ evidence leading you to that conclusion.

Mrs. Shuttleworth: Yes.

Mr. Shibley: The same kind of circumstantial evidence as has been as has been tendered before this committee. Isn't that so?

Mrs. Shuttleworth: There has been a lot of evidence tendered to this committee and I don't know which you ~~are~~ are referring ^{to} as circumstantial.

Mr. Shibley: The point I want to make clear however, is that when MR. Smith made that observation to you ^{when} ~~of~~ it was the subject of discussion among the people within Ellis-Don that political influence had formed part of the reasons for the allocation of this contract, that you were speculating in that respect.

Mrs. Shuttleworth: Yes, I would agree - I would ^{if} say that we continued only to speculate ~~to~~ we had had proof

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10.30 - 10.35 am

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AA

(Mrs. Shuttleworth)

we wouldn't have needed the Globe and Mail. They were the vehicle of investigation, if they found that there was, in fact, truth to these suspicions and they were the party to prove, but we certainly couldn't.

Mr. Shibley: That's the point. At the time of these discussions, you had suspicions, you were speculating, but there was no ~~any~~ proof as such.

Mrs. Shuttleworth: That is correct.

Mr. Shibley: There were these circumstances surrounding the letting of the contract and the calling for tenders known to Mr. Smith, and that's what led him to the suspicions that he was expressing to you. Is that so?

Mrs. Shuttleworth: Yes.

Mr. Shibley: And at the point of communication with the Globe and Mail, as you have indicated, the investigative process leading to hard evidence of what was then only a suspicion, was only then undertaken. Isn't that so?

Mrs. Shuttleworth: Yes, we knew how it affected us, but we did not know how other people had been treated by Hydro.

Mr. Shibley: Right!

Mrs. Shuttleworth: And it was a major decision to even attempt to find out the answer, but it was one that Mr. Smith felt had to be done if you believed in fair play.

Mr. Shibley: Yes and that was the reason he communicated with Mr. Manthorpe to have the investigative process commenced by the Globe and Mail.

Mrs. Shuttleworth: Yes, that's right and he

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AA

(Mrs. Shuttleworth)

deliberated for quite some time before he did it, because you just don't jump into that sort of thing.

Mr. Shibley: I realize that. The point I am trying to make clear, because I don't want the function of this committee to be usurped, so to speak, by the evidence you earlier tendered; the conclusion, if it was such, in the thinking of Mr. Smith and the people within Ellis-Don, was a conclusion predicated upon surmise and not predicated upon hard evidence at that time.

Mr. Brownlie: What time? Are you speaking *in the past now?*

Mr. Shibley: I am talking about the period prior to the communication with the Globe and Mail.

Mrs. Shuttleworth: Half and half! The facts, as we knew them, were most unusual. The speculation as to why they were is the other part.

Mr. Shibley: That's the point I'm driving at. Your expression as to the belief that there was political influence involved, at that juncture was speculation.

[Handwritten scribbles]

H 810 - 1 follows

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10.35-10.40a.m.
P.A.

H-810-1

(Mr. Shibley)

~~Mr. Shibley: Yes, I am sure that the~~
~~Mr. Shibley: Yes, I am sure that the~~
~~Mr. Shibley: Yes, I am sure that the~~

Mr. Shibley: So that, members of the committee, it is still left to the members of this committee on ~~the~~ basis of the evidence tendered before it, to reach the conclusion in question and I want ~~to~~ just to be clear that this witness, nor anyone within Ellis-Don, had hard evidence at the time that Mr. Bullbrook was examining upon, respecting the answer the witness had given.

Mr. Chairman: Mr. William Hodgson.

Mr. W. Hodgson: Yes. During your ~~questioning~~ testimony to the questioning of Mr. Bullbrook, you made the statement that Mr. Smith didn't use political influence to obtain his contracts, he said it was his own. ~~Wouldn't you~~ say by going to Mr. Jackson that -- we know what Mr. Jackson's position was and ^{he went to} Mr. Barnicke and Mr. Cronyn, also -- to get advice ~~to~~ see what they could do for him, wouldn't you say he ~~was~~ had done a little bit of politicking?

Mrs. Shuttleworth: Ah, to get advice, but not to see what they could do for him. To get advice as to how he could proceed.

Mr. Wm. Hodgson: He went to Mr. Jackson definitely to open a door for him to get to the chairman of Hydro.

Mrs. Shuttleworth: Yes, but you notice he didn't ask Mr. Jackson to present his case to Mr. Gathercole.

Mr. Wm. Hodgson: Oh, I don't know what he asked him, I know his evidence said he went there to get an appointment, or ~~in~~ in other words, open a door.

Mrs. Shuttleworth: That is fact, if has been presented, yes.

Mr. Chairman: Any other members? Mr. Glen Hodgson.

Mr. R. G. Hodgson: In Exhibit 172, which is the newspaper article of April 30, about one third of the way down

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B.A.

(Mr. R. G. Hodgson)

there is a reference to Mr. Nixon ^{Remier} says Mr. Moog is a close friend of William Davis^o. Would that be the first time that you came across, or heard of, or recognized any reference to these two men being friends?

Mrs. Shuttleworth: That is not the first time ~~they~~ I would have heard of it, but that would be the first time I saw it in print and attributed ~~as~~ to any particular person, i.e., Mr. Nixon.

Mr. R. G. Hodgson: In the ~~same~~ period of ~~time~~ ^{from the first} ~~time that you heard~~ until this article, did anyone in Ellis-Den, or of the firm, make any attempt to call Mr. Barry Brooks of OISE, to determine about their friendship?

Mrs. Shuttleworth: No, no one did.

Mr. R. G. Hodgson: Thank you.

Mr. Chairman: Any other questions? Mr. Allan,

Mr. Allan: Mr. Chairman, I seem to remember something that ~~at~~ Mrs. Shuttleworth mentioned yesterday which indicated that in procuring government contracts, that it was useful to get in touch with politicians. Was I right in that?

Mrs. Shuttleworth: I think we would have to check my testimony. I can't recall a statement such as that, or in what regard I made it.

Mr. Allan: I tried to locate it this morning but I didn't make it. But....

Mr. Chairman: Mr. Allan, the air conditioner has more volume than you have, so would you please move....

Mr. Allan: Well, I thought ^{that} with air, that I could compete.

Mr. Chairman: Hansard would like us all to speak a little louder.

Mr. Allan: I would just like to have your ^{opinion} as to the procedure that you followed in procuring government

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B.A.

(Mr. Allan)

contracts, whether political ~~and~~ influence had anything to do with it or not.

Mrs. Shuttleworth: I don't feel it has, ^{at} least, prior to this I ~~never~~ didn't think it had.

Mr. Allan: I wonder if you have separated, that is you are talking about government contracts, and even this morning you asked that ministerial incidence with government contracts, ~~and~~ ^{the Shuttleworths for 11 years} really they are ~~as~~ different, aren't they? That is, it is a different authority. That is, you don't look upon Hydro as a branch of government, do you?

Mrs. Shuttleworth: I'm afraid I do.

Mrs. Allan: Well you might be mistaken.

Mrs. Shuttleworth: I know it's not technically so, but in layman's terms, I think the majority of us consider the various commissions part of the government.

Mr. Allan: Well, this would be an opinion, and ^{which would indicate} really, you haven't been told to ~~obtain~~ any definite information that Hydro were influenced by politicians, ~~except at a high level~~ except at a high level and

(Tape H-811 follows)

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10.40 - 10.45 am

H 811 - 1

AA

(Mr. Allan)

~~and in a very general way, by government.~~

and in a very general way, by government.

Mrs. Shuttleworth: Are you asking me to confirm that I don't know, in fact, that Hydro was influenced and by whom? Yes, I can confirm that. I don't know.

Mr. Allan: You don't know. No. And there is no real connection between government and Hydro. They are two entirely different authorities, aren't they?

Mr. Brownlie: Is that a question of the witness, Mr. Allan?

Mr. Allan: Yes.

Mrs. Shuttleworth: To my knowledge, yes, they are separate. But I also know that ~~they~~ they have, in the past, followed the same principle as government does in tendering on their work and this was a great deviation from that approach, and to my knowledge, ~~we~~ wasn't discussed with the government, this major deviation.

Mr. Allan: Or not likely to be, I said.

Mrs. Shuttleworth: I couldn't say.

Mr. Chairman: Mr. Allan, that's the ~~the~~ first time I have seen you have difficulty getting the answers from a lady that you would like to get.

Mr. Shibley: And you should have seen him in his youth.

Mr. Chairman: Are there any other questions of Mrs. Shuttleworth? Mrs. Shuttleworth, thanks very much. You

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10.40 - 10.45 am

H 811 - 2

AA

(Mr. ~~Chairman~~ Chairman)

have been very precise and explicit and helpful to us. Thank you.

Mrs. Shuttleworth: Thank you, Mr. Chairman, Mr. Shibley.

Mr. Shibley: Members of the committee, I might tell you that I have arranged for Mr. Cronyn to be recalled. He is on a tight schedule, according to his representative, and will be here at 11.30 and hopefully away by three. I have given him no assurances that ~~he~~ he will be away by three. I have told him that 11.30 will be a time when we will inject his evidence into these ~~proceedings~~ proceedings. What I suggest we do now is go to the evidence of Mr. Grant, limiting the questioning of this witness to the area that we are dealing with now, because he will be ~~are~~ recalled later referable to the financial aspects of the Ellis-Don proposal ~~and if we~~ are through with him ^{by} 11.20, we might have a break and then start with Mr. Cronyn. But if we are not complete with his evidence at 11.30, I would like then to interrupt it, in order that we get Mr. Cronyn's evidence in today. Is that agreeable?

Mr. Chairman: I think we are agreed to that.

Mr. Shibley: Fine.

Mr. Chairman: Mr. Grant, will you come forward then please.

Mr. Brownlie: Mr. Chairman, for the record, I appear for Mr. Grant as well.

Mr. Chairman: Fine, thank you, Mr. Brownlie.

DAVID VICTOR GRANT - Sworn.

Mr. Shibley: Mr. Grant, what is your occupation?

June 28th, 1973

10.40 - 10.45 am

H 811 - 3

AA

(Mr. Grant)

Mr. Grant: I am secretary-treasurer of Ellis-Don.

Mr. Shibley: How long have you held that position?

Mr. Grant: Six months.

Mr. Shibley: What was your former occupation?

Mr. Renwick: How long did you say.

Mr. Grant: Six months.

Mr. Shibley: What was your ~~former~~ former occupation?

Mr. Grant: Treasurer of Bovis Corporation Ltd. and its subsidiaries.

Mr. Shibley: So that until six months ago, you had no communication with nor involvement with Ellis-Don. ~~Is~~ Is that correct?

Mr. Grant: That is correct.

Mr. R. G. Hodgson: I was just checking with the Chairman why he didn't have the ~~witnesses~~ ^{you} witnesses touch the Bible or hold the Bible when they are taking their oath.

Mr. Chairman: I will be more specific in the ~~future~~ future, Mr. Hodgson.

Mr. Grant: ⁹ ~~You~~ can do it again, if you wish.

Mr. Chairman: The Bible is there and an affirmation is sufficient in any event.

Mr. ~~Shibley~~ Shibley: Thank you. In terms of the Hydro contract, Mr. Grant, when was the first occasion upon which you had any involvement as an employee of Ellis-Don

Mr. Grant: Sometime in February of 1973.

Mr. Shibley: February of 1973. I should have

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H 811 - 4

AA

(Mr. Shibley)

asked you, what formal training do you have and what is your field of expertise?

Mr. Grant: In respect of formal training, do you mean I hold a chartered accountant's degree or something of that nature?

Mr. Shibley: Yes.

Mr. Grant: No, I do not.

Mr. Shibley: What training have you had in ~~accountancy~~ accountancy?

Mr. Grant: 17 years of practical experience.

Mr. Shibley: Right. And particularly in the construction field?

Mr. Grant: All in the construction field.

Mr. Shibley: Yes, so that now taking you to February of 1973, ~~as~~ you've mentioned that as the commencement of your involvement, what was that involvement?

Mr. Grant: In respect of Hydro?

Mr. Shibley: Yes.

Mr. Grant: We were, at that particular time, preparing a proposal for another client on the basis of purchasing a piece of property they own, building a building and ~~leasing it to~~ leasing it ^{to} them.

Mr. Shibley: Yes.

H 812 - 1 follows

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10.45 to 10.50 am
DT

~~Mr. Shibley: you have mentioned that as the commencement of your involvement. What was that involvement?~~

~~Mr. Grant: In respect of Hydro?~~

~~Mr. Shibley: Yes.~~

~~Mr. Grant: On a power agreement. They were building a building and I was...~~

~~Mr. Shibley: Yes.~~

Mr. Grant: In establishing approximated maintenance costs, Mr. Smith recommended that I probably would be wise to review the Hydro file in that particular regard, so I did that.

Mr. Shibley: I see and having -- I am sorry. Did he in the course of that conversation with you discuss the circumstances surrounding the letting of the Hydro contract to Canada Square?

Mr. Grant: No, he did not.

Mr. Shibley: Your next step was then to review that file?

Mr. Grant: Just solely for the maintenance information.

Mr. Shibley: What was the next involvement that you had respecting the Hydro contract?

Mr. Grant: It would have been the morning of April 17 when Mr. McAuliffe came in for the interview.

Mr. Shibley: Now just taking the period between February and April of 1973, before Mr. McAuliffe appeared on the scene, did you during that period participate in any discussion with Mr. Smith respecting the circumstances surrounding Hydro's letting that contract to Canada Square?

Mr. Grant: Not that I specifically recall, no.

Mr. Shibley: Did you overhear any conversations between Mr. Smith and anyone else in the same respect?

Mr. Grant: Not that I recall.

Mr. Shibley: Did you see any documents, correspondence, memoranda or written material of any kind which impinged upon the circumstances surrounding the letting of the

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(Mr. Shibley)

Hydro contract to Canada Square?

Mr. Grant: No, sir. In reviewing the file of course I would naturally have to pass over certain pieces of correspondence. I may have briefly glanced at them in order to see if there was anything contained therein referable to maintenance. ~~Since~~ ~~at that particular time, it was the only thing~~ I was interested in.

Mr. Shibley: Aside from discussions with Mr. Smith, did you have any form of communication with anyone else, within or outside of Ellis-Don, regarding the circumstances of Hydro letting this contract to Canada Square?

Mr. Grant: No, sir.

Mr. Shibley: Or overhear any such communication?

Mr. Grant: No.

Mr. Shibley: You have reviewed in preparation for these hearings the whole of the documentation in the files of Ellis-Don?

Mr. Grant: Yes, I have.

Mr. Shibley: And in particular, you have considered the relevancy of all such documents?

Mr. Grant: Yes.

Mr. Shibley: You know the documents that have been produced to me as counsel to this committee?

Mr. Grant: Yes, I do.

Mr. Shibley: And otherwise than the computer run-offs that I believe have ~~produced~~ ~~been~~ to someone else on my instructions, is it your sworn testimony that all documents in the possession of Ellis-Don from whatever ~~file~~ file have been produced to me?

Mr. Grant: Yes, sir.

Mr. Shibley: All documents that are relevant to any issue in these proceedings?

Mr. Grant: Yes, sir.

Mr. Shibley: And you understand what those issues are?

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Mr. Grant: Yes, sir.

Mr. Shibley: All right. Now, let's take you down then to the April 16. This is the day before Mr. McAuliffe's meeting at London. Were you as of that date aware that Mr. Smith had had previous telephone communications with people at the Globe and Mail?

Mr. Grant: No, sir.

Mr. Shibley: Were you aware that he had on that date had a telephone communication with Mr. McAuliffe?

Mr. Grant: No, sir.

Mr. Shibley: How did it come to your attention that Mr. McAuliffe was to attend at London to meet with Mr. Smith and others?

Mr. Grant: Mrs. Shuttleworth told me about 9 o'clock that morning.

Mr. Shibley: On the 17th?

Mr. Grant: That's right.

Mr. Shibley: That's the first you were aware of it?

Mr. Grant: Yes.

Mr. Shibley: Now, then, would you then give us your chronology of events as you remember them on April 17th?

Mr. Grant: Well Mr. McAuliffe arrived about 9.15 or 9.20. Mrs. Shuttleworth brought him in and we were introduced. ~~He sat down and I sat down and we had a conversation~~
~~as to what exactly was~~

(H-813 to follow)

H-813-1

(Mr. Grant)

He sat down, and I believe I opened the discussions as to just exactly what the purpose of the interview was really all about. I knew it regarded the Hydro contract. What I really wanted to know was what Mr. McAuliffe's specific parameters were going to be. He outlined them. He probably spent 15 or 20 minutes just discussing the overall outline of what some of the background was in respect of the Globe and Mail in this particular investigation, and so on. I believe following that I made a statement to him. I don't recall exactly only one particular word in it, whether it was abundantly or absolutely, but I said I wished to make it absolutely clear that Ellis-Don Limited does not wish to become embroiled in a mud-slinging contest. Mr. McAuliffe assured me that that would not be the case, that he had intended to talk to each and every developer, Hydro staff, and several other contacts which he did not indicate, and the article would be written in a total and general review of the letting of the Hydro contract.

I don't specifically recall whether I mentioned it again, but Mr. McAuliffe's position at that time was to say I absolutely guarantee you I will not use Ellis-Don's name. And in fact, he said I am presently being held in contempt for failing to divulge a source, so I can assure you this doesn't bother me. Then we proceeded with the interview.

Mr. Shibley: Just going back for a moment, Mr. Grant. In terms of the basic outline that you talked about, what did you mean by that?

Mr. Grant: We discussed, I think just in the opening remarks, the initial article that had been written by Mr. Manthorpe, the raising in the House of questions by Mr. Nixon, and so on, referable to the friendship of Mr. Moog and Mr. Davis. I suppose just a broad description of just the letting of that particular contract to Canada Square.

Mr. Shibley: Had you, prior to Mr. McAuliffe's attendance, received either directly or through Mrs. Shuttleworth, any instruction from Mr. Smith as to the disclosures to be made to

H-813-2

(Mr. Shibley)

Mr. McAuliffe?

Mr. Grant: No sir, I don't believe so.

Mr. Shibley: In fact the files of Ellis-Don were produced to him were they not?

Mr. Grant: Yes sir.

Mr. Shibley: The whole of the ~~the~~ files referable to the Hydro contract, is that correct?

Mr. Grant: Yes.

Mr. Shibley: Was that not done upon Mr. Smith's explicit authority?

Mr. Grant: No sir, not to my knowledge.

Mr. Shibley: You did it on your own?

Mr. Grant: It was my understanding from Mrs. Shuttleworth that Mr. Smith had granted this interview.

Mr. Shibley: What I wanted to know.

Mr. Grant: Right, and under the terms that I specifically stated, I felt no reason why these could not be shown.

Mr. Shibley: The terms, as stated by Mrs. Shuttleworth, by that phrase you mean the instructions given by Mr. Smith?

Mr. Grant: Yes.

Mr. Shibley: And what were the terms of reference communicated to you by Mrs. Shuttleworth in that regard?

Mr. Grant: I don't recall a specific term of reference. All I can recall specifically is that Mrs. Shuttleworth told me a newspaper reporter from the Globe and Mail ~~would~~ be coming down this morning. Mr. Smith would be a little late, and had to rush off to a meeting, and he asked that we see him.

H-814-1 follows

June 28/73
10:55-10 am
C.B

Mr. Shibley: Was it your understanding that Mr. Smith had, to use Mrs. Shuttleworth's term, decided to take a moral stand respecting the manner of letting of this contract?

Mr. Grant: I don't believe at that specific time, following the interview though and during the next few days he made the entire position quite clear to me.

Mr. Shibley: Yes.

Mr. Grant: The efforts that they had gone to, etc. I must correct myself in previous, earlier testimony — in going through the Hydro file, I had read their proposal.

Mr. Shibley: Yes.

Mr. Grant: So I was aware of some of the details.

Mr. Shibley: Now, when you made the statement to Mr. McAuliffe respecting not wanting to become embroiled in a mud-slinging contest, you did that on your own initiative.

Mr. Grant: That's correct.

Mr. Shibley: Yes. You've read the article of April 30, 1973 which is an exhibit?

Mr. Grant: Yes.

Mr. Shibley: Do you consider that that ~~article~~ article offends, first of all, the undertaking of Mr. McAuliffe that it would not amount to a mud-slinging effort?

Mr. Grant: I felt that the specific use of the Ellis-Don name, the name of its president and that particular quote which at that particular time, I had never heard Mr. Smith ever utter, was mud-slinging, definitely.

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10:55-11 am
C..B.

Mr. Shibley: Would you look at the article which has been presented to you now? Aside from the one quotation, do you consider that the article as written amounts to mud-slinging?

Mr. Grant: Yes, particularly with respect to the fact that having been involved with the interview myself directly, it was very easy for me to pick out the entire article as having been written or interviewed with one specific company. It relates almost entirely, paragraph by paragraph, ^{to} ~~the~~ Ellis-Don.

Mr. Shibley: Mr. Grant, do you not distinguish between slinging-fact and slinging-mud?

Mr. Grant: Under the terms of our interview, yes I do. I think when you bring a company's name up when you are specifically asked not to, then you direct whatever comments are made in a direct slam against that particular company, yes.

Mr. Shibley: I don't think you quite understand the ~~gist~~ ^{gist}...of my point.

Mr. Grant: I see your point. What you are saying is that ~~as~~ nothing in here is really mud.

Mr. Shibley: That's right.

Mr. Grant: I agree with you.

Mr. Shibley: It's not mud.

Mr. Grant: It's fact.

Mr. Shibley: It's fact.

Mr. Grant: Yes.

Mr. Shibley: So that's what I say, aside from the question of disclosing the source by inference

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10:55 - 11am

C.B.

(Mr. Shibley)

or otherwise of the facts, Do you consider the article to offend the undertaking of Mr. McAuliffe that it would not be a mud-slinging article?

Mr. Grant: It is not, No, it is not a mud-slinging article.

Mr. Shibley: In fact the article is an outline of facts intended by Mr. Smith to receive publication.

Mr. Grant: Yes, I don't believe in this context, though.

Shibley:

Mr. Grant: Now, we'll get to that in a moment.

Mr. Grant: All right.

~~Mr. Grant~~ I'm not talking about the possible disclosure of the source of the facts. I'm talking now about the facts themselves.

Mr. Grant: Yes.

Mr. Shibley: The circumstances of how Hydro let this contract.

Mr. Grant: Yes.

Mr. Shibley: I Am not the facts of this article, the very facts which Mr. Smith intended to have published through the vehicle of the Globe and Mail?

Mr. Grant: I would say yes.

Mr. Shibley: Yes, and were intended by him, as Mrs. Shuttleworth indicated to be the instigation of an investigation into the letting of the contract?

Mr. Grant: I believe he wouldn't have granted that interview if hadn't had that in mind.

Mr. Shibley: Exactly. So that what offends you, and I believe others within Ellis-Don, about the article itself, I take it, is that enough was said within the article to identify Ellis-Don as the ~~source~~ source of the information.

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10:55-11am

C.B.

Mr. Grant: That is quite true.

Mr. Shibley: Yes,

Mr. Brownlie: Mr. Chairman, excuse me for interrupting, but he made another point also that offended in ~~the~~ ~~them~~ It is not merely the revealing of their names that concerned ~~them~~.

Mr. Shibley: I'll get to the quotation also. If you will, Mr. ~~Brownlie~~ Brownlie, I'll just take it in order. What offended you about the article was that it, by inference or ~~otherwise~~.

H815 to follow

June 28, 1973
11.00-11.05 am
F.B.I.

(Mr. Shibley)

~~_____~~
~~_____~~
~~_____~~
otherwise to your mind disclosed the identity of the source of those facts?"

~~XXXXXX~~

Mr. Grant: That's right.

Mr. Shibley: And that was a violation in your mind of what Mr. McAuliffe had undertaken?

Mr. Grant: That's right.

Mr. Shibley: Now when you expressed the terms upon which you were affording the interview, did Mr. McAuliffe on his part agree to the restrictions that you sought to impose?

Mr. Grant: Yes.

Mr. Shibley: He agreed that there would be no identification?

Mr. Grant: Yes.

Mr. Shibley: Directly or indirectly of his source? Is that right?

Mr. Grant: Yes, that's right.

Mr. Shibley: All right.

Mr. Bullbrook: I don't understand that. I don't understand that evidence at all.

Mr. Shibley: I can hardly hear you.

Mr. Bullbrook: ~~_____~~. I don't understand that evidence ~~and~~ not in connection with what other witnesses have said ~~but~~ Could you elicit from the witness that there was no intention that the name Ellis-Don be ever used because I understood it had to be used if you were going to talk about the four propos^{er}ts.

Mr. Shibley: Well, Mr. Grant, let's start back for a moment. I think that it was the evidence of Mr. Smith or Mrs. Shuttleworth, I'm not sure which —

Mr. Grant: Mrs. Shuttleworth.

June 28, 1973
11.00-11.05 am
V H.

Mr. Shibley: ~~that~~ that ^{it} was understood that Mr. McAuliffe would reference the names of the four developers who were ~~and~~

Mr. Grant: I agree with that.

Mr. Shibley: But what that would not be disclosed by the article was ~~and~~

Mr. Grant: That Ellis-Don said ~~it~~.

Mr. Shibley: ~~and~~ that Ellis-Don provided the facts regarding the circumstances respecting the letting of the contract.

Mr. Grant: That's right.

Mr. Shibley: Is that right?

Mr. Grant: That's right.

Mr. Shibley: So that there was a distinction in the thinking of certainly the people at Ellis-Don between permitting your name to be mentioned as one of the contractors who had made a proposal and the terms of that proposal and not permitting your name to be mentioned as the source of information, such as the fact that others had had a lead start, etc.

Mr. Grant: I don't think ~~and~~ could have prevented the use of the name in respect of being one of the developers who submitted a proposal ~~and~~ it was a common knowledge for anyone who wanted to find out.

Mr. Shibley: Did you intend, for example, that Mr. McAuliffe should be permitted to say Ellis-Don Limited officials claim the firm's position had been misrepresented by Mr. Gathercole in his letter to Premier Davis?

Mr. Grant: That's right.

Mr. Shibley: You ^{did} ~~intend~~ intend him to identify you in that respect?

Mr. Grant: No I did not.

Mr. Shibley: Well did you intend him to publish the fact that certain of the information provided by Mr. Gathercole to the Premier was a misrepresentation?

June 28, 1973
11.00-11.05 am

Mr. Grant: Yes. That was one of my statements.

Mr. Shibley: You intended him to ~~ask~~ publish that fact?

Mr. Grant: Well, I didn't intend him to publish anything per se.

Mr. Shibley: You were quite prepared to have him publish that fact?

Mr. Grant: Sure, I made the statement.

Mr. Shibley: You made the statement? And in the course of publishing the fact of an alleged misrepresentation by Mr. Gathercole to the Premier, did you not intend or anticipate that respecting that item of information it would be essential to the publication of ~~some~~ that fact that your name be mentioned?

Mr. Grant: I don't think I recognized that fact at the time, no, sir.

Mr. Shibley: Well, whether or not you ~~might~~ recognized it, when you provided that information to Mr. McAuliffe, did you consider that that was one fact that he could publish and include an identification of your firm as the firm respecting which there was ~~an~~ misrepresentation?

Mr. Grant: Yes, he would make that statement, sure.

Mr. Shibley: ~~Did you intend that he would be permitted to make that statement?~~
You intended that he would be permitted to make that statement?

Mr. Grant: No, I don't think so. As I say, my interpretation of my statement to him and the opening remarks were that Ellis-Don's name would not be used in the article except as what I have already said.

H-816 follows

June 28, 1973
1105-11.10a.m.
B.A.

H-816-1

(Mr. Grant)

~~the statement was made by Mr. Grant~~
~~he~~ Now, I agree with you that if ~~you~~ ^{he} were to make a specific quote or a specific statement, he would most probably have to use that name but whether I ~~intend~~ intended it to be that way I would say, no.

Mr. Shibley: Well, let's telescope it this way. Do you consider that in the publication of that particular fact, Mr. ~~Mr~~ McAuliffe offended his undertaking to you?

Mr. Grant: Yes. You must recall, Mr. Shibley, that in the initial discussions with Mr. McAuliffe, this article was not going to be written on the basis of an interview with Ellis-Don and Ellis-Don only.

Mr. Shibley: I realize that.

Mr. Grant: It was going to be written on the basis of an interview with all four developers, Hydrex and whoever else Mr. McAuliffe chose to talk to.

Mr. Shibley: Mr. Grant, you notice that it is only when the article reaches the second column, that names of any developer are referenced. Is that correct?

Mr. Grant: That's right.

Mr. Shibley: And it starts off saying, after outlining certain content of the letter from Mr. Gathercole to the Premier in that column wherein the four firms are mentioned for the first time in the article, it goes on to say all three unsuccessful firms were approached and only Horizon refused to discuss the matter. Then it goes on, and the first statement directly attributed to you is the statement about which we have been dealing. Do you see that?

Mr. Grant: Yes.

Mr. Shibley: And what I am concerned about here is this, when you imparted that information to Mr. McAuliffe, did you not consider that if he was to report that it was ~~that~~

H-816-2

(Mr. Shibley)

essential to the reporting to identify your firm as the firm that had been misrepresented.

Mr. Grant: Yes. But you say, did I intend it that way?

Mr. Shibley: Did you not consider that if he was going to report it, it would be essential to identify you?

Mr. Grant: No, I don't believe I did consider it, to be quite honest with you.

Mr. Shibley: When you provided the information, did you intend the information to be published?

Mr. Grant: Yes.

Mr. Shibley: Then it goes on and indicates what the error is, ~~quite precisely~~. Did you provide that information to Mr. McAuliffe?

Mr. Grant: I am just trying to specifically ~~xxx~~ recall, Mr. Shibley, exactly where I got the comparisons of Ellis-Don's rental rate as to what ~~it~~ was really represented to - and it may not have been to the Premier. I just have difficulty in recalling and whether or not it was something that, whether or not it was the information or questions that were tabled and answered in the House, whether ~~it~~ or not I got the information from that, or specifically what, I just do not recall.

Mr. Shibley: All right. Well, let's go on with the interview for the moment, because the further references deal with Mr. Smith's comments, and we haven't yet reached this point in time on the 17th April when Mr. Smith joined you.

After you had settled on the outline and after you had laid down the caveat that there was not to be any identification of Ellis-Don as the source of the facts generally relating to the letting of the Hydro contract, what next took place in the initial meeting between yourself, Mrs. Shuttleworth and Mr. McAuliffe?

H-817-1

Mr. Grant: I believe that we began a general review of Ellis-Don's overall proposal, the submission they made. At that particular time, of course, I had very little input because I was not in the company at that particular time.

Mr. Shibley: I realize.

Mr. Grant: So a good deal of the comments made were comments made from Anne's direct knowledge.

Mr. Shibley: Yes.

Mr. Grant: As to specific words and phrases passed back and forth I really don't recall.

Mr. Shibley: At that particular time was there any mention~~ed~~ made by Mrs. Shuttleworth or Mr. McAuliffe respecting political influence as a factor affecting the letting of this Hydro contract?

Mr. Grant: Yes, I believe both of them made reference to the fact that Mr. Moog was a friend of Premier Davis.

Shibley:

Mr. Grant: Aside from mentioning the fact of the friendship was anything more said by either of them?

Mr. Grant: Not specifically that I recall. No.

Mr. Shibley: Was this the first occasion on which you had heard that the friendship of the Premier with Mr. Moog might be a circumstance which influenced Hydro in the ~~later~~ letting of this contract?

Mr. Grant: I honestly ~~believe~~ believe that I read that in the Globe and Mail or some newspaper in the winter of 1972 but I cannot again specifically say that for sure.

Mr. Shibley: So your only source of such information was by newspaper?

Mr. Grant: Yes, quite rightly so.

Mr. Shibley: Up to this point in time?

Mr. Grant: Yes.

Mr. Shibley: Was there any discussion at that first meeting of the fact that Mr. Moog was a supporter of the Progressive Conservative Party as a factor which influenced his obtaining this contract?

H-817-2

Mr. Grant: I don't think as a specific point.

Mr. Shibley: Now have you told us the whole of your recollection as to what transpired at that initial meeting?

Mr. Grant: ^{Na} We may have discussed, for instance, the Ellis-Don proposal was based on a one million square foot building, useable space building, overall size of 1,200,000. What was actually being built by Canada Square is something like 1,306,000. There is some discrepancy in some of the information if I can recall, and I believe that was the question and answers given in the House wherein Hydro were supposedly taking 1,124,000 and there would be 383,000 left for the others; well, they just don't add up to 1,306,000, so Hydro couldn't have been taking that much space in the first place. I showed Mr. McAuliffe the specifications that we had received from Mr. Candy, made specific notation of the date of them being February 1, when in fact our submission was put in on the 24th, although most of the general outline was the same, but it seemed somewhat unusual. There could have been five, six or ten other items brought to...

Mr. Shibley: Was there an interruption in that meeting?

Mr. Grant: We first sat down to talk at about 9:20. It was in a minute or two Mr. Smith ~~had~~ ^{then} rushed in. He came to the office either to pick something up or for some specific reason, and he had to rush right off again to a particular meeting he had already arranged.

Mr. Shibley: Did he make any statement within the minute that he was in and out?

Mr. Grant: My specific recollection was that he simply popped his head in the door, introduced himself, met Mr. McAuliffe, apologized for being unable to remain but he had already previously arranged this important meeting, and that he would be back within a couple of hours, then he left. That was all he said at that time.

Mr. Shibley: You then continued with Mr. McAuliffe?

Mr. Grant: That's right.

Mr. Shibley: Along the lines you have already mentioned?

Mr. Grant: That's right.

Mr. Shibley: Then Mr. Smith returned later?

H-817-3

Mr. Grant: Yes. He returned about 11:30; came in again, apologized for not having been in attendance throughout the time, and at that point my specific recollection is that it was at that point he mentioned, "You fellows are really stirring things up", and Mr. McAuliffe's reaction was, "Why do you say that?"

H-818-1 follows

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11.15 to 11.20 am
DT

(Mr. Grant)

~~stopping things up and Mr. McAuliffe's reaction was why do you say that?~~ He replied that he had received the telephone call advising him that this contract would be coming up in the House and that he might expect to hear from them and that was the end of it.

Mr. Shibley: ~~McAuliffe~~ Returning to the article which is in front of you, you will notice that in the second column at the bottom, it says: "Donald Smith, president of Ellis-Don, also said his firm was refused repeated requests to make a formal presentation to Hydro senior management, people who would be making the final decision." Did you hear Mr. Smith make that statement?

Mr. Grant: Yes, I believe so.

Mr. Shibley: ~~Not~~ Here again, was this to be ^{within} the context of providing facts anonymously or within the context of information elicited from interviews of all four developers?

Mr. Grant: I believe it was from interviews from all four developers and, in fact, I don't recall the specific timing in respect of Mr. Smith's return, whether or not we discussed one or two or three items before he advised Mr. McAuliffe also that he did not want his name used.

Mr. Shibley: You realize however --

Mr. Grant: That may have followed a particular ~~type~~ of discussions. I just don't recall.

Mr. Shibley: I understand, but I think perhaps we can reduce it to this. Certain facts which were being provided by the Ellis-Don people to Mr. McAuliffe were to be facts ~~published~~ published anonymously?

and
Mr. Grant: Yes/I should clarify that by a statement made by Mr. McAuliffe, and it included us providing him with a copy of our proposal. He claimed that he could have got that piece of information or any other piece of information if it was in written form from a number of areas and files. It didn't have

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DT

(Mr. Grant)

to come from Ellis-Don.

Mr. Shibley: Let's talk about creating two baskets of information if we will. The first ~~marked~~ basket of information was a basket of information that was to be published, but without indentifying source.

Mr. Grant: Yes.

Mr. Shibley: The other basket of information was to be information elicited by interviews of all four developers, Ellis-Don being one, and respecting which the source could be published.

Mr. Grant: ~~Yes~~ Yes.

Mr. Shibley: Is that correct?

Mr. Grant: I would say that's a possibility, yes.

Mr. Shibley: Now, what I am trying to do at the moment is to identify in terms of content from column two on, where there starts to be an ~~in~~ identification of source of information, which basket of information you consider these facts fell within.

Mr. Grant: Now, I disagree with you as far as the basket-basket bit. I consider the whole thing to be one basket, and ~~it~~ it may be very difficult to segregate that understanding because of the type of article, the type of items carried in it, but that is still my understanding, be it naive or whatever.

Mr. Shibley: Okay. Are you telling this committee that you intended and that Mr. Smith intended that no part of the information provided by Ellis-Don should be information respecting which Ellis-Don would be identified as the source?

Mr. Grant: Yes. ~~Now~~ Whether or not when you get to specifics that is entirely possible is a question which, in retrospect, you can look back and say - well --

Mr. Shibley: What I am wondering about at the moment is when Don Smith is reported saying he was refused requests to make a formal presentation, was that within the basket of

information that Mr. McAuliffe undertook would not be identified as to source?

Mr. Shibley: I see.

(H-819 to follow)

June 28, 1973
11.20-11.25a.m.
B.A.

(Mr. Shibley)

appreciated what Mr. Smith's feelings were as to the preferential ^{to} treatment that had been afforded ~~the~~ Canada Square?

Mr. Grant: Yes, absolutely.

Mr. Shibley: And now that you were knowledgeable in that respect, did he have further conversations with you?

Mr. Grant: Oh yes, very definitely.

Mr. Brownlie: Excuse me, Mr. Grant.

Mr. Chairman: Mr. Brownlie;

Mr. Brownlie: If I may ~~at~~ just interrupt. Mr. Shibley, you said that ^{he} ~~you~~ would get to the ^{problem} ~~essence~~ of this question.

Mr. Shibley: I'm sorry. You are quite right. I will.

Mr. Brownlie: And you asked ^{the} ~~a~~ question of the witness, "Did everything that Mr. Smith said in the conversation after he came back to the meeting, which is attributed to him in the article, was it said by him ^{or} ~~he~~, and he answered, "Yes".

Now I want it understood that the witness ~~had~~ has not said that that "threat" was part of the things he heard Mr. Smith say.

Mr. Bullbrook: We don't like the word "threat".

Mr. Brownlie.

Mr. Brownlie: I don't care how you ^{attribute} ~~affirm~~ it, his answer is quite clear in that respect; ~~he~~ ^{it} did not hear him say it at all, as I understand.

Mr. Grant: Thank you, Mr. Brownlie, that is very accurate.

Mr. Shibley: Well, that's ~~not~~ what he said, and I thought he had sufficiently covered it ^{with} ~~by~~ a blanket that it wasn't necessary to be specific, but if it excites your concern, Mr. Brownlie, I'll ask the ~~the~~ specific question of Mr. Grant;
/ you have read the quotation attributed to Mr. Smith?

Mr. Grant: Yes.

Mr. Shibley: Do I take it that you have not, on any occasion, heard Mr. Smith make such a statement?

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Mr. Grant: No, sir.

Mr. Shibley: ~~Are you sure~~ do you have any knowledge or information that such a communication was received by Mr. Smith?

Mr. Grant: No, sir.

Mr. Shibley: You have no knowledge or information in that respect?

Mr. Grant: None whatsoever.

Mr. Shibley: Has he ever discussed this quotation with you?

Mr. Grant: Yes.

Mr. Shibley: And what had he to say in that respect?

Mr. Grant: To the best of his recollection he can never recall having made that statement.

Mr. Shibley: I see. And was that prior or subsequent to the time when Mrs. Shuttleworth refreshed his memory?

Mr. Grant: I would say both, because even as of the last couple of days, Mr. Smith and I have discussed this in the presence of Mrs. Shuttleworth, and he still maintains, and I have to appreciate that, that he, himself, does not recall ever having said those words.

Mr. Shibley: All right. Now, you mentioned earlier in your testimony that you did have further discussion with Mr. Smith respecting the circumstances of Hydro letting this contract to Canada Square. What were those discussions?

Mr. Grant: Having just joined Ellis-Don, I had been spending a considerable amount of time just simply trying to fill myself in as to the background of the company. We had several meetings, more just spontaneous ^{rather} than arranged meetings, and this particular issue, the proposal of Hydro ~~as~~ itself, described the entire sequence of events _____

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11:25-11:30 am
V.H.

(Mr. Grant)

~~do not recall the exact date~~ starting with about the early part of January onwards and the efforts that he made, and it was subsequent to that I read the file in detail.

Mr. Shibley: Mr. Grant, did Mr. Smith ever discuss with you the fact that he believed that political influence had been a factor in the awarding of this contract?

Mr. Grant: He suggested that possibility.

Mr. Shibley: Yes. Did he ever give you facts other than the circumstances outlined in the Globe article and the circumstances that you heard outlined in the evidence before this committee?

Mr. Grant: Not that I can specifically recall, no.

Mr. Shibley: So that his belief in that respect was founded upon circumstantial evidence?

Mr. Grant: Yes, I believe that.

Mr. Shibley: He never did mention having any direct knowledge of any fact upon which that conclusion could be founded?

Mr. Grant: That's correct.

Mr. Shibley: In the sense that he didn't see a document or otherwise participate in any discussion wherein it was made known to him as a fact that political influence had been a factor in the awarding of this contract?

Mr. Grant: No sir.

Mr. Shibley: Now, members of the committee, I intend to recall this witness as I mentioned on financial matters. I have asked everyone to defer that. ~~I do not~~ I do not have any further questions on this topic.

Mr. Renwick: Mr. Chairman, I think we should say to Mr. Grant that we are sorry to inconvenience him in order to convenience Mr. Cronyn.

Mr. Grant: I have been here for seven weeks.

Mr. Renwick: I would certainly want to ask one or

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V.H.

(Mr. Renwick)

two questions about the matters which Mr. Shibley has been dealing with. Perhaps we could recess at this ...

Mr. Chairman: There is no reason why you can't proceed with those now, Mr. Renwick.

Mr. Renwick: Well, I think we should have a recess if we are going to start ~~the~~ again in a few minutes, Mr. Chairman.

Mr. Grant: Depending on the length of your questioning, I don't mind staying here.

Mr Renwick: It would depend a great deal on the responses to my questions, Mr. Chairman.

Mr. Chairman: All right then, let us recess now for ten minutes.

The committee then took recess for ten minutes.

H-821 follows

June 28th, 1973

11.45 - 11.50 am

H 821 - 1

AA

Mr. Chairman: Ladies and gentlemen, I call the meeting back to order. Mr. Shibley.

Mr. Shibley: Mr. Chairman, I have a few further questions I would like to ask of this witness and then I will be calling Mr. Cronyn. Mr. Grant, returning just to the topic of the limits that were placed upon Mr. McAuliffe respecting the publication of facts provided by you and Mrs. Shuttleworth and later by Mr. Smith, could you assist the committee as to what, if anything, was said in your presence by Mr. Smith to Mr. McAuliffe in that regard?

Mr. Grant: I don't recall the specific set of circumstances under which he made that particular statement, except to say, "Gee, don't use my name."

Mr. Shibley: I see.

Mr. Grant: "We just don't want our name in the paper."

Mr. Shibley: And that was said during the course of his more complete participation, not in the course of the first attendance when he was in and out?

Mr. Grant: No, that is correct. It would have been between 11.30 and 12.

Mr. Shibley: Did he say anything else, and I want you to be as explicit as possible in that respect?

Mr. Grant: Regarding the use of the Ellis-Don name?

Mr. Shibley: Yes.

Mr. Grant: No, I don't specifically recall.

June 28th, 1973

11.45 - 11.50 am

H 821 - 2

AA

(Mr. Shibley)

Mr. Shibley: Was there ever any exchange that you overheard wherein Mr. McAuliffe asked particularly whether a certain portion of the information could or could not be published with identification as to source?

Mr. Grant: ~~Yes~~ No, I do not recall anything.

Mr. Shibley: Now, the only other topic I want to cover with you a little more carefully is in respect of the documents that were produced to Mr. McAuliffe. ~~Was~~ was the correspondence file produced to him?

Mr. Grant: Yes.

Mr. Shibley: And was the letter of August 21, 1972, from Mr. Smith to Mr. Seguin, in that file at that time?

Mr. Grant: Yes, I believe so.

Mr. Shibley: So that it was shown to Mr. McAuliffe?

Mr. Grant: Well, he had the file to read and how much of it he specifically read, I don't know.

Mr. Shibley: Was the letter of July 14 from Mr. Smith to Mr. Cronyn in that file or any file produced to Mr. McAuliffe?

Mr. Grant: No, not to my knowledge.

~~Mr~~ Mr. Shibley: Now, were copies of documents in those files provided to Mr. McAuliffe?

Mr. Grant: I do not specifically recall having made a photo-copy or giving Mr. McAuliffe a copy of any correspondence. ^{He} ~~Mr~~ did get a photo copy of our proposal with Mr. Smith's okay.

Mr. Shibley: Yes.

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11.45 - 11.58 am
AA

H 821 - 3

(Mr. Grant)

Mr. Grant: I related to Mrs. Shuttleworth yesterday that I thought he may have got a copy ~~of~~ of the Hydro specs from me.

Mr. Shibley: Yes.

Mr. Grant: But I am not sure whether or not he took them or whether or not he already that sort of ~~one~~ documentation.

Mr. Shibley: Was there any ~~correspondence~~ correspondence respecting which he was provided with copies?

Mr. Grant: Not that I can recall, Mr. Shibley.

Mr. Shibley: He might have been?

Mr. Grant: I would have to say I don't believe so.

Mr. Shibley: Was there any ~~correspondence~~ ~~provided to him, copies of which have not been~~ copy of correspondence provided to him, copies of which have not been provided to me?

Mr. Grant: No sir.

Mr. Shibley: Was there any document provided to him, copies of which were not provided to me?

Mr. Grant: No sir. Not that I am aware of.

Mr. Shibley: Not that you are aware of?

Mr. Grant: No.

Mr. Shibley: And you are providing us with the best of your knowledge, as well as your information?

Mr. Grant: To the best of my knowledge and ~~information~~.

Mr. Shibley: And you ~~have~~ have discussed this with Mrs. Shuttleworth?

Mr. Grant: Yes I have.

June 28th, 1973

11.45 - 11.50 am

H 821 - 4

AA

(Mr. Shibley)

Mr. Shibley: As well as with Mr. Smith?

Mr. Grant: Yes.

Mr. Shibley: Right. I have no further questions, Mr. Chairman.

Mr. Chairman: Mr. Renwick.

Mr. Renwick: Mr. Grant, I take it that apart from your understandable sensation that Mr. McAuliffe breached a confidence with respect to the disclosure of the name and other particulars about Ellis-Don that you don't dispute the accuracy of any portions of the April 30th story in the Globe and Mail that you have knowledge of?

Mr. Grant: Save and except that one particular clause and, as you say, that I have knowledge of and I have no further knowledge.

Mr. Renwick: Yes, and you specifically stated that you have no knowledge of, nor did you hear any words to that effect.

Mr. Grant: That is correct.

Mr. Renwick: Mr. Grant, in the short time that ~~you have been with Ellis-Don since~~ you have been with Ellis-Don since

H 822 - 1 follows

June 28/73
11:50-11:55 am

C B,

(Mr. Renwick)

~~Mr. Grant is asked what information he has received since February of 1973, has there been any information come to your knowledge other than through company sources including Mr. Smith or Mrs. Shuttleworth about the circumstances of the letting of the contract by Hydro to Canada Square?~~

Mr. Grant: No, sir, except what ~~was~~^I read in the paper, what I've read in testimony; it is difficult to really split what I've learned in the past seven weeks to what I may or may not have known in that two-week period between the interview and the article.

Mr. Renwick: Leaving aside the hearings of this committee and leaving aside what you read in the newspaper, no one has come to you nor have you had brought to your attention any information which you would specify as being brought to you in your capacity as an officer of Ellis-Don, about any of the circumstances surrounding the letting of the Hydro contract to Canada Square?

Mr. Grant: No sir, nothing.

Mr. Renwick: Thank you Mr. Chairman.

Mr. Chairman: Any other members?

Mr. Grant, I understand that Mr. MacLuliffe made some reference to the fact that he was presently being held in contempt, is that correct?

Mr. Grant: Those were his words.

Mr. Chairman: Did he say that as a source of pride, or what was the reason for saying that?

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11:50-11:55 am

C.B.

Mr. Grant: I think simply acknowledging what my concerns were in respect of the use of our name and the confidentiality of our discussions.

Mr. Chairman: In other words, you could rely on him, is that ~~correct~~ ^{correct}?

Mr. Grant: I ~~is~~ felt we could, yes.

Mr. Chairman: Yes, Mr. Newman.

Mr. W. Newman: Just one quick question. Item 175, the letter of July 14, to Mr. Cronyn. Were you aware of its existence?

Mr. Grant: No sir.

Mr. W. Newman: Prior to coming to this committee?

Mr. Grant: No sir. When you say "prior to coming to this committee", within the last two, three four days, that ~~was~~ was my first knowledge of it.

Mr. Chairman: Thank you.

Mr. Grant: If I might say so, Mr. Shibley, there was one subject brought up sometime ago in respect of why didn't Ellis-Don go to the Globe and Mail and complain about what was written and the use of the name, etc.

Mr. Shibley: Yes.

Mr. Grant: That was my direction, and I did it because I felt our confidence had been broken.

Mr. Bullbrook: I'm not following that. That is interesting to me.

Mr. Shibley: Yes, I ~~am~~ gather what you are saying, Mr. Grant, is that you decided that the wise course to follow ~~is~~ was not to follow through with a complaint to

June 28/73

11:50-11:55 am

C.B.

(Mr. Shibley)

the Globe and Mail.

Mr. Grant: That's right.

Mr. Shibley: For fear ^{of} what else might be published.

Mr. Grant: Well, you end up with a continuation of "Ellis-Don says / Ellis-Don says / Ellis-Don says," and what's the point.

Mr. Shibley: So that you say it was your decision. Was that because Mr. Smith was away at the time?

Mr. Grant: Yes, he was in Europe. When I read the article I was on my way to ~~my~~ our Sudbury operation; when I arrived there I phoned Mrs. Shuttleworth immediately and discussed the article, the fact that it had come to publication, ~~and~~ she said that she had attempted to reach Mr. McAuliffe, and I said, "Don't do it again".

Mr. Shibley: Mr. Grant, wasn't the situation generally that yourself and Mrs. Shuttleworth were by nature ~~as~~ instinct very much more cautious in dealing with the press than was Mr. ^mSmith himself?

Mr. Grant: It's quite possible.

Mr. Shibley: He was quite prepared to be open and expansive in his communications to the press, whereas your instinct and that of Mrs. Shuttleworth was ~~to~~ to play it closer to the vest.

Mr. Grant: That's the way I ^{view} ~~do~~ it.

Mr. Shibley: Yes. I think that becomes very apparent in the manner in which Mr. Smith has given his testimony, I might say.

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11:50-11:55 am

C.B.

Mr. Chairman: Thank you very much. Mr. *Cowper-Smith* spoke to me just after we recessed for fear that he was misleading this group. He tells me that he is not yet a solicitor, but almost qualified to be a solicitor. So he is representing Mr. Laidlaw, who in turn represents Canada Square. I don't think that disqualifies you ~~from~~ *from* sitting at that table. *Mr. Cowper-Smith.*

Mr. Brownlie: Not considering the ambit of authority of one ^{who} is called to the bar.

(We wouldn't want)
Mr. Bullbrook: *Mr. Brownlie* ~~wasn't~~ *to* think he was unduly restricted at all.

H 823 to follow



H-823-1

Mr. Shibley: Mr. Chairman, I next call Mr. John Cronyn to the stand. This witness was previously called to give evidence, and I have asked that he be recalled.

Mr. Chairman: Mr. Cronyn, Mr. Eberle was just in here, I guess he has gone out looking for you. Here he is now.

Mr. Eberle is here this morning representing Mr. Cronyn as I understand it.

Mr. Eberle: Yes, Mr. Chairman, perhaps before we begin with Mr. Cronyn this morning I should let the committee know that Mr. Cronyn has come here on very short notice and certainly at the expense of inconveniencing a number of other people with whom he had appointments today. But there is one appointment which he must keep today, and which really will require him to leave here this afternoon not later than three o'clock. I have no idea how long the committee or counsel for the committee may expect to be with Mr. Cronyn, but I'm afraid I must make this clear at the outset, that Mr. Cronyn really must be away from here at three o'clock this afternoon.

Mr. Chairman: Mr. Shibley drew that to our attention Mr. Eberle, and we will try and oblige.

Mr. Shibley: I want it understood however Mr. Chairman, that the short notice was a notification yesterday morning at 7:30 a.m. between Mr. Bell at my office directly to Mr. Cronyn. Mr. Cronyn was told that arrangements would be made to call him yesterday. That was not convenient to him. He later left word that we were to call him in London at eight last night and that call was placed by Mr. Bell, and I talked again to his solicitor last evening at 11:30 p.m. ^{But} ~~whereas~~ the fact that Mr. Cronyn's attendance would be required before this committee was known to him as early as yesterday morning at 7:30 a.m. I also indicated ^{whereas} ~~that~~ the committee would like to accommodate all witnesses that there were 11 members of the committee, and half a dozen counsel, and half the staff of Hydro attending these hearings, and that that had to be balanced against the individual circumstances of a particular witness.

H-823-2

(Mr. Shibley)

What I suggest we do is that we carry through to three o'clock. It may be a convenient time to excuse Mr. Cronyn to have him return, on the other hand, on Tuesday. If it is inconvenient in the sense that the interruption of his examination is considered material.

H-824-1 follows

June 28/73
12.00 to 12.05 pm
DT

(Mr. Shibley)

~~It is the understanding of the committee~~
~~that the committee would discharge him at that time,~~
then I want it understood by the committee that no assurance was given by me to his counsel that this committee would discharge him at that time, but rather to the opposite effect.

Mr. Chairman: All right. I think we will do our very best to advise him, but I think that's fair and a proper statement just the same. Mr. Cronyn, you were sworn the other day when you were here.

Mr. Cronyn: Yes, sir.

Mr. Chairman: Mr. Shibley.

Mr. Shibley: Mr. Cronyn, I want to refresh your memory and the memory of members of this committee as to testimony that you provided on your earlier attendance so as to ensure that when you are asked further questions, you do so on the basis of understanding the portions of your earlier testimony that I consider material. I understand also that you also have had the benefit of being provided with transcript of the whole of the testimony of Mr. Smith on his two attendances, of Mrs. Shuttleworth and of your own prior testimony in order that you might review it prior to your reattendance today. Is that correct?

Mr. Cronyn: Yes, sir. I don't have Mrs. Shuttleworth's this morning.

Mr. Shibley: I realize that. Hansard are great but they are not quite that great.

Mr. Cronyn: I just wanted to clear that point.

Mr. Shibley: Right. But ~~otherwise~~ otherwise than her evidence of this morning and that of Mr. Grant this morning, you have received through me the whole of the evidence to which I have referred and have reviewed it.

Mr. Cronyn: I have had a chance to skim it. I wouldn't say that I reviewed it. I haven't had nearly as much time as you have.

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DT

Mr. Shibley: I understand. ~~Not Mr.~~

Mr. Cronyn: Could I have copies of what you are referring to please?

Mr. Shibley: I thought you were in receipt of transcripts.

Mr. Cronyn: Yes, but I would like the page and the part *you are referring to.*

Mr. Shibley: Yes, I am going to refer to ~~to~~
~~have~~ you not got your copies of Hansard?

Mr. Cronyn: Yes.

Mr. Shibley: I am looking at Hansard ~~and~~ I think all members of the committee would be interested in following the transcript ~~xxx~~ itself at page 675-1.

Mr. Bullbrook: That's the morning session?

Mr. Shibley: That's ~~that's the morning session~~
Thursday, June 21, morning session.

Mr. Cronyn: What page?

Mr. Shibley: I am looking at tape 671, page 1.

Mr. Bullbrook: ~~What page?~~ 671?

Mr. ~~xx~~ Shibley: I am sorry, 675, page 1.

About two-thirds down the page.

"Mr. Shibley: Now dealing first with the matter of numbers of communication. Were there any communications as between you and he relative to the subject of the Hydro contract other than those to which Mr. Smith ~~has~~ adverted?"

"Mr. Cronyn: Well, I don't know how many he has referred to. We had several conversations over the course of the year.

"Mr. Shibley: All right. Let's start with them one at a time. When was the first communication between you and he in this respect?

"Mr. Cronyn: I would say it was early in 1971.

"Mr. Shibley: Yes."

[And then later]

"Mr. Cronyn: I told him at that time I didn't know whether they were or weren't going ahead with the building and I

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12.00 to 12.05 pm
ET

~~Mr. Cronyn~~ Mr. Shibley quoting Mr. Cronyn's evidence
ain also told him in view of the job I had with the government there was nothing I could do in the way of helping him.

"Mr. Shibley: All right, when was your next communication?"

~~Mr. Cronyn~~ I alert members of the committee that quite coincidentally I — not coincidentally, as a matter of fact of examining the witness, I was examining him as you will see in chronological sequence as to the communications between he and Smith throughout the year 1972.

"Mr. Shibley: When was your next communication?"

"Mr. Cronyn: Later on I would think in the spring of that year when he again told me he was trying to find out whether there was anything going on and wasn't making a much progress, and I think that the next one ~~was~~."

(H-825 to follow)

June 28, 1973
12.05-12.10a.m.
B.A.

H-825-1

(Mr. Shibley)

Quoting the Court: evidence

~~he was going to a land use hearing then the only thing that was~~
~~and then the matter was postponed and then it was postponed~~

"really was, I guess, the spring of 1972 when he told me that he felt he was getting the run around and wasn't getting proper hearing for his proposition."

Mr. Shibley: Then, skipping to the next page 3, towards the bottom;

"Mr. Shibley: And did you do anything other than advise him to pursue the matter directly with Gathercole or Gordon?"

(I'm towards the bottom of the page)

"Mr. Cronyn: Nothing, I was in no position to do that."

"Mr. Shibley: I see. You made no other efforts on his behalf?"

"Mr. Cronyn: No, sir."

Mr. Shibley: Then skipping to page 678-1, a quarter of the way down.

"Mr. Shibley: Was there any mention made as to why he thought Canada Square was being given the ~~unilateral~~ inside track?"

"Mr. Cronyn: Nothing but hearsay."

"Mr. Shibley: Well, what was the hearsay?"

"Mr. Cronyn: The hearsay was that because the contractor, Canada Square, Mr. Moog was a friend of Mr. Davis he was therefore being given the inside track, which is complete hearsay."

"Mr. Shibley: So that it was part of your discussion⁵ in the spring of 1972 that Mr. ~~Mo~~ Moog was a friend of Premier Davis?"

"Mr. Cronyn: Yes."

Mr. Shibley: Then on the next page, half way down.

"Mr. Cronyn: I guess I probably said that I believed it had absolutely nothing to do with it, no bearing on it at all, and I think that's probably why I said you should go and talk to Mr. Gathercole or Mr. Gordon."

"Mr. Shibley: From what he said to you, however,

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(Mr. Shibley) *quoting Mr. Cronyn: ...*

"It was implicit that he considered it had something to do with it?

"Mr. Cronyn: Yes.

"Mr. Shibley: And when I say it ~~was~~ had something to do with it, I mean that Mr. Smith considered the ~~the~~ friendship between Premier Davis and Mr. Moog had something to do with Canada Square getting this contract?

"Mr. Cronyn: He looked at that as a possibility."

Mr. Shibley: Then on page 677-1, about two-thirds down the page:

~~...~~

"Mr. Cronyn: There was no place that I could intervene.

"Mr. Shibley: Yes. Did it not ~~was~~ excite some concern on your part that this combination of circumstances had been disclosed to you?

"Mr. Cronyn: Not really. I mean, as a director of this company there is no reason why he shouldn't disclose this to me, that he was unhappy ~~was~~ with the treatment he was getting."

Mr. Shibley: And on the next page, a quarter of the way down,

"Mr. Shibley: Yes. And did you not feel that you had some responsibility to do ~~was~~ something about it?

"Mr. Cronyn: No, sir, it is not within any terms of reference of my job to do anything about that.

"Mr. Shibley: And you never took it up with anyone within Hydro?

"Mr. Cronyn: No, I did not, sir.

"Mr. Shibley: Nor did you take it up with anyone within government?

"Mr. Cronyn: No, sir.

"Mr. Shibley: Did you have any advice, beyond what you have told us, to give to Mr. Smith at that time?

"Mr. Cronyn: That was the only advice I gave him.

"Mr. Shibley: All right. Well, when was the next communication?"

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~~Mr. Cronyn: I ask you, Mr. Cronyn, to carefully follow the~~
sequence of questions and answers

"Mr. Cronyn: Well, it's hard to say whether it was in the summer or fall; and it was just a continuation of the same sort of reaction, that he really was getting nowhere. And then I suppose when the contract was let sometime in the fall of 1972, he certainly got some reaction there, pretty much of a 'well, I told you so, this was what I was going to happen'.

"Mr. Shibley: Let's go back for a moment to the communication in the summer or summer-fall of 1972. Can you be more precise as to the time of that communication?

"Mr. Cronyn: Well, when was the contract let? When did it become known?

"Mr. Shibley: It was signed on November 1 and was published, I believe, shortly thereafter.

"It was prior to the execution and then publication of the agreement with Canada Square?

"Mr. Cronyn: Well, I think it was earlier than that that it was public knowledge.

"Mr. Shibley: In any event, the communication we are talking about was during the summer of 1972?

"Mr. Cronyn: Summer, fall; somewhere in there.

"Mr. Shibley: Yes, you say it was the same reaction so that the reaction at that point of time was one of getting the run-around, is that correct?

"Mr. Cronyn: Well, I don't know when Don Smith learned that the contract had gone to Canada Square, but it was at that time there was some further discussion.

"Mr. Shibley: Well, I took it from your earlier answer ^{to} that particular point in time that...."

[And there's a scrambling.]

"Mr. Shibley: ...that there were two discussions, one in the summer-fall and prior to the contract being published, and

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(Mr. Shibley) quoting Mr. Cronyn's evidence

"then ~~an~~ another one in the fall of 1972 when he said, 'I told you so'.

"Mr. Cronyn: Well, if we had one in the summer, it was a very casual one during then.

"Mr. Shibley: That's the one I want to deal with first.

"Mr. Cronyn: That was simply a comment or a request from me, I guess, ~~to~~ say, 'How are things going?' Don had really given up at that point.

"Mr. Shibley: Where did this conversation take place?

"Mr. Cronyn: Probably at our cottages at Grand Bend.

"Mr. Shibley: Did he again tell you that he felt he was getting the ~~the~~ run-around?

"Mr. Cronyn: No, really, at this point he had given up; he had just washed his hands of it.

"Mr. Shibley: Did he make any expression to you

~~at this time that he should be given a second chance for letting me know~~

(Tape H-826 follows)



K-826-1

(Mr. Shibley)

~~Did he make any other arrangements~~ at that time that he thought it was a predetermined arrangement for letting the contract to Canada Square?^W

"Mr. Cronyn: No, I don't think we had any detailed conversation. This was just simply "I give up. It's going to go to Canada Square".

"Mr. Shibley: Did he say anything that would indicate to you that he didn't feel he was getting a fair shake, or had not received a fair shake?"

"Mr. Cronyn: No, he didn't pursue that discussion at that time."

[Then about a third of the way down:]

"Mr. Shibley: So that when did he tell you he felt that Canada Square had the inside track?"

"Mr. Cronyn: Well, I think it was back at February, or that spring discussion that he told me that.

"Mr. Shibley: I see. And in the intervening discussion in the summer - fall, that was no part of that discussion?"

"Mr. Cronyn: No. They weren't detailed discussions they were just comments in passing."

[Then on the next page.]

"Mr. Shibley: Had you informed yourself in any other manner during the interval pending your conversation with Smith in the fall of 1972?

"Mr. Cronyn: Had I what?"

"Mr. Shibley: Informed yourself as to the circumstances regarding the letting of the contract to Canada Square from any other source?"

"Mr. Cronyn: No, I hadn't."

"Mr. Shibley: So, right up until the fall of 1972, the only source of information you had, referable to the letting of this contract, was from Mr. Smith alone?"

"Mr. Cronyn: That's correct."

"Mr. Shibley: Did you give him any advice respecting his own reaction or conduct consequential upon the letting of the

H-826-2

(Mr. Shibley) *quoting from Mr. Cronyn's evidence*

contract to Canada Square?"

"Mr. Cronyn: No, sir."

"Mr. Shibley: Not at that time?"

"Mr. Cronyn: Not at that time."

"Mr. Shibley: Now then, what was your next communication with Mr. Smith?"

"Mr. Cronyn: The next one would have been the "famous" phone call."

"Mr. Shibley: ~~Remember~~ All right. The famous phone call, when was this made?"

"Mr. Cronyn: Well, it must have been made subsequent to December 12, which I believe was the date that it was on the order paper;"

Now just stopping there, Mr. Cronyn, I want to produce to you what is now exhibit 175, being a letter dated July 14, 1972, from Ellis-Don Limited, over the signature of D.J. Smith to yourself at the John Labatt Limited address in London. Do you recognize that letter?

Mr. Cronyn: Yes, I do sir.

Mr. Shibley: Do you have the original of that letter?

Mr. Cronyn: No, I don't sir.

Mr. Shibley: Did you receive the letter?

Mr. Cronyn: Yes, I did sir.

Mr. Shibley: And were you aware of the content of that letter when you made the responses to me to which I have referred you, and read from Hansard?

Mr. Cronyn: It didn't occur to me to raise the letter. The contents of it were extremely vague in my mind by that time. I had taken no action on the letter.

Mr. Shibley: You didn't respond to it?

Mr. Cronyn: No I did not.

Mr. Shibley: What I am asking you at the moment, however, is having regard for your answers to me as I have read them to you respecting information provided to you during the summer of 1972,

H-826-3

(Mr. Shibley)

how do you reconcile those answers with the receipt by you of exhibit 175, the letter dated July 14, 1972?

Mr. Cronyn: As I said, sir, the letter didn't even occur to me during the questioning. I don't memorize all the letters I get.

Mr. Shibley: And that's your only explanation?

Mr. Cronyn: It's my only explanation. It simply did not occur to me. We were talking about discussions and meetings and ~~xxxxx~~ actually the letter never even came into my mind.

Mr. Shibley: Mr. Cronyn, I'll remind you that I repeatedly asked you, and again at 678-2:

"Had you informed yourself in any other manner during the interval pending your conversation with Smith in the fall of 1972?

"Mr. Cronyn: Had I ^{what I} ~~what~~?"

"Mr. Shibley: Informed yourself as to the circumstances regarding the letting..."

H-827-1 follows

June 28th, 1973

12.15 - 12.20 pm

H 827 - 1

AA

(Mr. Shibley)

~~Mr. Cronyn, "Had I asked Mr. Shibley, 'Informed yourself~~
~~as to the circumstances regarding the letting of the contract~~
to Canada Square from any other source." Answer: "No, I
hadn't."

Mr. Cronyn: That is correct. I thought you
were referring to Mr. Smith, ~~that~~ as any other source than
Mr. Smith.

Mr. Eberle: Mr. Shibley, Mr. Chairman, I think
Mr. Shibley's ~~the~~ very next question makes that very clear.

Mr. Shibley: Mr. Cronyn, I think the committee
wants to understand very clearly why neither yourself, nor
Mr. Smith in the first instance, made reference to the letter
of July 14, 1972, which, when brought to Mr. Brownlie's
attention, he recognized immediately as being highly cogent
to the issues before this hearing.

Mr. Cronyn: But surely - well, I can only
answer for myself.

Mr. Shibley: Yes.

Mr. Cronyn: And I told you it didn't occur
to me.

Mr. Shibley: That's your simple answer?

Mr. Cronyn: Yes.

Mr. Shibley: Having now reconsidered the
content of that letter, do you appreciate that it does
contain ~~information~~ information salient to the issues before
this hearing?

Mr. Cronyn: I think that would have to be a
legal ^{opinion} ~~and~~ I can't give you an opinion on that.

Mr. Shibley: I want your opinion. Do you

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12.15 - 12.20 pm

H 827 - 2

AA

(Mr. Shibley)

not recognize that the facts as outlined in that letter are material to the deliberations of this committee?

Mr. Cronyn: Well, I don't see anything really new in here that already hasn't been said.

Mr. Shibley: That's not the point of my questioning, Mr. Cronyn. The point of my questioning is why - I am sorry.

Mr. Cronyn: I have answered that question.

Mr. Shibley: Yes, you have answered that question and I want the committee to understand what your present view of the content of that letter is as to materiality.

Mr. ~~Shibley~~ Eberle: Surely, Mr. Chairman, materiality is not for this witness to determine the

Mr. Shibley: It is in ~~the~~ sense that a decision was taken as to whether it was material to be produced or referred to in earlier testimony and that decision was taken by this witness.

Mr. Eberle: No, Mr. Chairman, I can't disagree more ~~strongly~~ strongly with that. Mr. Shibley asked the witness certain questions and he answered them and ~~in~~ in my respectful submission, no problem arises out of those.

Mr. Bullbrook: Mr. Chairman

Mr. Chairman: The materiality of this document is

Mr. Bullbrook: Mr. Chairman, I want to say something to you before you make a ruling on this.

Mr. Chairman: Yes. I am just commenting that

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12.15 - 12.20 pm

H 827 - 23

AA

(Mr. Chairman)

I think that the materiality of the documents was important and Mr. Cronyn, in not ~~bringing~~ bringing this forward or mentioning it earlier, in his own mind made some ruling on it, unless, of course, he says it didn't come to mind at all and I think that's his evidence. Mr. Bullbrook.

Mr. Bullbrook: Well - yes, well ~~and~~

~~Mr. Eberle:~~ ^{Mr. Eberle:} ~~When he said the contents of it~~
~~were~~ were entirely vague in his mind and he didn't have it in his mind when he was being ~~questioned~~ questioned on it this last week. I think he has given that answer.

Mr. Chairman: Mr. Bullbrook?

Mr. Bullbrook: I understood our counsel was attempting to elicit, as some support for his state of mind, the content of the letter that we don't make a judgment on, but that we accept evidence upon, ~~and~~ certainly, Mr. Chairman, I would like counsel to pursue, as I am sure he intends to, one of the most salient features of Mr. Cronyn's involvement in this matter and some of his evidence related to the question as to whether a government official or some other person had told Mr. Smith that he might be without government work and, of course, the letter contains in the last paragraph, that very thing. I want to say as one member of the ~~sub~~ committee, I find it very very difficult to understand how the significance of that last paragraph in the context of our responsibilities would escape Mr. Cronyn's understanding.

Mr. Chairman: Did you have any comment to make, Mr. Renwick?

Mr. Renwick: Well, I wanted to ask Mr. Cronyn

June 28th, 1973

12.15 - 12.20 pm

H 827 - 4

AA

(Mr. Renwick)

a question, because I certainly don't accept the response that the question of materiality is a legal question. I would like to ask Mr. Cronyn if he received a communication from the secretary of this committee about his original appearance here.

Mr. Cronyn: No, I did not.

Mr. Renwick: You received no letter requesting your appearance before this committee?

Mr. Cronyn: No. It was all by phone. And very short notice.

Mr. Shibley: I am informed by the clerk that ^{Mr Cronyn} at the time the decision to call ^{was} made, there was ^a very limited opportunity to give written notification, and he was notified by the clerk by phone. I think, however

Mr. Cronyn: I was notified by Mr. Bell and yourself.

All right.
Mr. Shibley: Mr. Cronyn

Mr. Renwick: Let me pursue this matter.

What was your understanding of the instructions under which you were to appear here when you first appeared, Mr. Cronyn?

Mr. Cronyn: I had no instructions.

Mr. Renwick: No instructions. Were you aware of the terms of reference

H 828 - 1 follows

June 28, 1973
12.20-12.25 pm
V.H.

~~Mr. Cronyn: I had read the terms of reference.~~

~~Mr. Renwick: No, I had not read the terms of reference.~~

~~the terms of reference~~ of this committee?

Mr. Cronyn: Well, I expect I read them in the paper.

Mr. Renwick: You were not furnished with a copy of the terms of reference of this committee?

Mr. Cronyn: No, I was not.

Mr. Renwick: And what was your knowledge of the reason for your appearance before this committee?

Mr. Cronyn: Well, it was very brief. It was simply the fact that Mr. Smith had identified myself as the person that had called him and therefore ~~therefore~~ it would be necessary to call me as a witness and I would be here at ten o'clock in the morning.

Mr. Renwick: To give witness about what?

Mr. Cronyn: Just simply to be a witness, as far as I

Mr. Renwick: To give evidence about what, Mr. Cronyn?

Mr. Cronyn: I don't recollect any detail of what evidence I was supposed to give.

Mr. Renwick: No, I am not asking you that. What was the topic in your mind that would be a matter on which you would be questioned before this committee?

Mr. Cronyn: Well I really -- that would be all conjecture. I was simply being called to be a witness because I had been named as a person who had called on Mr. Smith by Mr. Smith.

Mr. Renwick: Would you have not considered that it had something to do with the contract ~~was~~ between the Ontario Hydro and Canada Square?

Mr. Cronyn: Well it was obviously to do with the Hydro building.

Mr. Renwick: So you knew that it was a matter to do with the Hydro building?

Mr. Cronyn: Well, of course, because Mr. Smith had been a witness during that day.

June 28, 1973
12.20-12.25 pm
V.H.

Mr. Renwick: And were you aware when you appeared before the committee that an allegation had been made that the friendship between Mr. Moog and Mr. Davis had influenced the letting of that contract?

Mr. Cronyn: Well I think that was in my evidence.

Mr. Renwick: I said, were you aware when you appeared here that that was one of the matters that this committee was considering?

Mr. Cronyn: No, I don't know whether you had considered it or not.

Mr. Renwick: But you were specifically aware that you had been named as the person in the one paragraph of the April 30 ^{article} ~~edition~~ of the Globe and Mail?

Mr. Cronyn: That's right.

Mr. Renwick: Dealing with what had been colloquially referred to as the "threats"?

Mr. Cronyn: Yes.

Mr. Renwick: Did you make any effort before you appeared before this committee to refresh your mind or memory on any of the matters on which you gave evidence?

Mr. Cronyn: I had no time to do that. All I had a chance to do was read while I was listening to Mr. Smith complete his evidence some extracts from the day before which were got down to me about 11 o'clock I think.

Mr. Shibley: That's the transcript of Mr. Smith's evidence, ~~and it~~ ^{which} was provided to you before you were called as a witness.

Mr. Cronyn: Yes. I had to simply read the parts that were marked ~~for~~ for me while I listened to Mr. Smith give the rest of his evidence. IT DOESN'T GIVE ONE

Mr. Renwick: Mr. Chairman, I want to raise this matter this way. I think ~~the~~ the matters which we are going to deal with with Mr. Cronyn in his evidence now are extremely important to the committee. It is also in my view,

June 28, 1973
12.20-12.25 pm
V.H.

(Mr. Renwick)

Mr. Chairman, extremely important that Mr. Cronyn be dealt with in a totally fair manner. I notice that both in his previous testimony at the ~~the~~ very beginning and again ~~this~~ morning that he indicated that he only had an opportunity to skim through certain ^{PORTIONS} ~~portions~~ of the evidence. I think that was the expression he used and we are well aware from the statement of his counsel and the difficulty ^{which} he had in appearing before us yesterday that he has come with his mind occupied by ^{many} other matters. It is also clear that he was not given the kind of formal instruction which I regret to say I endeavoured to insist upon from this committee at

~~the committee's request.~~

H-829 follows

June 28/73

12:24-12:30 pm

C.B.

(Mr. Renwick)

~~I do not think it is fair to Mr. Cronyn or fair to the committee that we should pursue this matter in this hurried, pressured atmosphere.~~

I think, in view of the seriousness of the matters, in view of the need for Mr. Cronyn and his counsel to the extent that he may find it necessary to review meticulously whatever evidence is already before the committee, that we should not continue to hear evidence from Mr. Cronyn today, but that we should fix a time which meets the convenience of the committee which is paramount but which would meet Mr. Cronyn's convenience to the extent that we can accommodate him, so that the matters can be properly and adequately dealt with. I have the sensation of a hurried, pressured atmosphere here which I don't think is conducive to the work of this committee.

Mr. Chairman: Your comments are well taken, Mr. Renwick. Have you any comments, Mr. Shibley, on this?

Mr. Shibley: My only concern is ~~not~~ to leave off without everyone here present being alert to the circumstance that prior to the giving of his testimony --

Mr. Cronyn: Could you speak up sir?

Mr. Shibley: Prior to the giving of Mr. Cronyn's testimony that he was provided with a transcript of Mr. Smith's testimony. In Hansard at ^{tape} ~~page~~ 690, page 2, ~~away~~ toward the bottom of the page, I'm sorry, about three-fifths of the way down.

June 28, 1973
12.25-12.30 pm
V.H.

(Mr. Shibley *quoting*)

X "Mr. Shibley: After that meeting what was the next occasion on which this report of the conversation between you and Mr. Smith was considered, or discussed by you with anyone?

"Mr. Cronyn: I really didn't discuss it with anybody.

"Mr. Shibley: That was the last occasion on which you discussed this matter?

"Mr. Cronyn: No, I think I've seen Don since and he asked me if I knew when I was going to be called. He told me that he had a meeting with yourself a week ago Monday, I believe. I said: 'Let me know if and when you are going to be called'.

"Mr. Shibley: So that Mr. Smith was in communication with you following my interview with him a week ago Monday?

"Mr. Cronyn: ~~■~~ No, I don't think I've talked to Mr. Smith since then because I didn't know --

"Mr. Shibley: I'm trying to help you, Mr. Cronyn.

"Mr. Cronyn: -- when Mr. Smith was called.

"Mr. Shibley: It would have been a Monday or a Friday when I interviewed him. I'm not sure when we started to sit Mondays which started to eliminate my interviews that day.

"Mr. Chairman: A week ago Monday.

"Mr. Shibley: You are quite right, it was a week ago Monday.

"Mr. Cronyn: No, I don't think I have had any conversations since that time because, I guess, I read in the paper that Mr. Smith was being called yesterday.

"Mr. Shibley: I see. And was anything new or different added to your earlier discussions as to the content of this article?

"Mr. Cronyn: Nothing whatsoever."

June 28, 1973
12.25-12.30 pm
V.H.(Mr. Shibley):

So that, Mr. Cronyn, isn't it a fact that you did have a ~~disc~~ discussion with Mr. Smith referable to the content of this article as it affected you well before your attendance as a witness ~~before~~ before this committee the first time around?

Mr. Cronyn: I am not sure I get the point of your question. On page 690-2 that paragraph which you started with should have read: "No, I think I've seen Don since and I asked him if he knew when he was going to be called." I had no idea I was going to be called at that point in time.

That's not
Mr. Shibley: My point, Mr. Cronyn. You had a discussion with Mr. Smith referable to these proceedings even prior to the point of time when Mr. Smith was called?

Well, yes, June 3, when we had discussed the newspaper article. I've already I had given that in evidence.
Mr. Cronyn: Well yes June 3, when we had discussed the newspaper article. ~~I had already given that in evidence.~~

can
Mr. Shibley: Yes. So that ~~was~~ there been any suggestion on your part that you were not alert to the area of evidence respecting which your testimony was required when you first appeared?

Mr. Cronyn: I don't follow your questioning.

Mr. Shibley: Well, are you suggesting to this committee when you were called as a witness the first time around you were not alert to the area of investigation respecting which your evidence was required?

Mr. Cronyn: No, I wasn't alert to that.

Mr. Shibley: You were alert to the circumstances that you were going to be asked about the quoted ~~track~~ *that* in the newspaper article of April 30? Were you not?

Mr. Cronyn: That's correct.

Mr. Shibley: ~~Yes, and you can't~~

H-830 follows



June 28/73
12.30 to 12.35 pm
DT

(Mr. Shibley)

~~You were alert to the circumstance that you were going to be asked about the reported threat in the newspaper article of April 30th, were you not?~~

~~Mr. Cronyn: That's correct.~~

Mr. Shibley: Yes, and did you not search your memory and whatever other sources of information you had referable to that question prior to your giving that evidence?

Mr. Cronyn: ^{didn't} No, I really have the time to search my memory along the line of questioning which you started as to when did I see Mr. Smith, what dates, what did we discuss. I thought we would be dealing with the phone call.

Mr. Chairman: Mr. Cronyn and Mr. Shibley, we are getting off a little bit from the subject matter.

Mr. Bullbrook: No, Mr. Chairman, I disagree most respectfully ^{with} you, we are not getting off the subject at all. We are dead on the subject.

Mr. Chairman: ^{was asked} I ~~was asked~~ to make a ruling ~~now~~ as to the relevancy of this —

Mr. Bullbrook: Well, before you make a ruling I want to say this to you. I want to disagree with my colleague, Mr. Renwick. I don't think this witness is in any different position than any other ~~same~~ witness that is called to this committee, or for that matter committee members or for that matter counsel to witnesses or counsel to this committee. We all have collateral ~~same~~ responsibilities. If the witness had said that he didn't recall this letter then there would have been a great need, I think, to afford the witness an opportunity to refresh his mind on everything. As I understand the evidence, the witness said it didn't ~~as~~ occur to him to raise the letter and that meant in point of fact that he was ~~is~~ aware of the letter. That's the essence of what we must get at.

Renwick:

Mr. ~~Chairman~~: The letter didn't occur to him.

June 28, 1973
12.30-12.35 pm
E.D.T.

(Mr. Renwick)

Not to raise the letter --- but I say he was vague about it.

Deans:

Mr. Chairman: You said he was vague about it.

Chairman: He said

Mr. Renwick: The letter ~~was~~ didn't occur to me

during the questioning."

Mr. Bullbrook: Well, the point I make is this, that I think this witness is in no different a position than any other witness and I would like to see us proceed in the aspect of course of entire fairness, but I don't take umbrage at all with the vigour of direct examination by our counsel in this respect.

I want to say frankly that I find it just astonishing that the witness, in the context of the famous quotations that we have been dealing with about people and about whether Ellis-Don would get government jobs ~~not recalling~~ ^{would} this letter.

Mr. Renwick: Well, Mr. Chairman, my only comment is that each witness before this ~~committee~~ ^{Committee} in my judgement, not as a matter of procedure but as a matter of substance, was entitled to be summonsed properly before the committee, to be advised of the terms of reference, to be advised of the requirement that ~~he~~ ^{we} be ~~bring~~ ^{bring} with him any documents, papers, writings or other matters related to him. That is a substantial matter. I raised it as a substantial matter at the very first meeting of this committee. We had the discussion whether it would be done by Speaker's warrant. It was then decided that it would be done by the Clerk. It was my understanding it was to be done by the Clerk of the assembly. When I looked into the matter yesterday, I ~~found~~ ^{found} to my chagrin that a ~~letter~~ ^{letter} ~~had~~ ^{had} gone out, with no disrespect to the secretary of this committee, under his signature to certain of the witnesses and Mr. Cronyn has advised that he did not receive ~~any~~ any such letter.

Now, ~~had~~ ^{there been} a letter even in the circumstances of the letter from the clerk of this committee, setting out the request or the command or whatever you wish, to him to attend with respect to it, then I would say that Mr. Cronyn's response, if he had made the same response, would not have been an acceptable one,

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12.30 to 12.35 pm
DT

(Mr. Renwick)

but that letter sent to ~~each person who~~ each person who ~~was~~ was to be summonsed as a witness was a crucial matter with respect to the work of the committee. Now, at that point in time, and because the question of Mr. Cronyn's credibility is before the committee which will reflect not just on the question of this letter but on all the other aspects of his evidence, I do not conceive that the committee at this time, under these circumstances, should persist in continuing this question. That is the view which I take and I would move, Mr. Chairman, that the committee not now continue with the evidence of Mr. Cronyn but that a date convenient to the committee and, if possible, convenient to Mr. Cronyn be fixed for Mr. Cronyn's return to the committee.

Mr. Chairman: You are making a motion rather than asking me for a ruling on it?

Mr. Renwick: Well, then, ~~Chairman~~ Mr. Chairman, I would ask for a ruling, either one or the other. I don't want to place the committee in a situation where we are going to vote on the matter. If you would make the ruling,

Mr. Chairman: Anyone can challenge the ruling I make. That may be a possible way to

Mr. Renwick: Well, I would

(831 to follow)

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12:35 - 12:40 pm

C.B.

~~Mr. Chairman: Beyond that challenge the ruling~~
~~I make if that may be.~~

Mr. Renwick: I will ~~at~~ translate it into a
~~request~~ request for a ruling, Mr. Chairman.

Mr. Chairman: Now does anybody else have a
 comment on it?
 Mr. Q. G. Hodgson:
~~Mr. Chairman~~ Mr. Chairman, I would like to
 have Mr. Cronyn explain whether he is prepared to go ahead.
 I think we have interrupted his schedule and he is here
 now and I think perhaps if he is prepared to go ahead
 with the questions ^{ing} that should be considered.

Mr. Deans: Mr. Chairman, before you review
 whether ^{the} Cronyn is prepared to go ahead or not, ~~time~~
 it was with some reluctance if you recall in the early
 days of the committee ^{that} and I agreed to not summons ^{ing} all
 the witnesses. I believe the ~~Speaker's~~ ^{Speaker's} ~~warrant~~ ^{warrant} ~~might~~
^{and I stated so at the beginning}
~~to have been used.~~ The reason being that required ~~the~~ ^{one}
 witness to prepare and to come forth with all matters pertinent.
^{the} ~~We~~ are now in a position where ~~we~~ ^{Mr. Cronyn} have to ask ~~whether~~
 there are any other documents and...

Mr. Shibley: Mr. Chairman, if I may intervene.
 If you are ~~through~~ through, Mr. Deans ~~was~~.

Mr. Chairman: I'm not ^{so} sure Mr. Deans is
 through.

~~Mr. Deans: There is a possibility that we are getting fat and~~
~~and there may be other things which~~ ^{bring} it is very necessary for us to have ^{and shut} Mr. ~~Chairman~~ ^{Chairman} ~~Cronyn~~
 should be obliged to ~~get~~ ^{bring}

Mr. Chairman: ^{Now} Mr. Shibley ~~and~~ and I'll come back to you, ~~Mr. Ren~~

Mr. Shibley: I think the committee must
 distinguish between two things. Whether a ~~witness~~ witness
 is here as a result of a Speaker's warrant, a letter from
 the clerk or on his own consent. His attendance is brought
 about in one of those three ways. The summons in itself

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12:35 -12:40 pm
C.B.

(Mr. Shibley)

does not ensure ~~any~~ completeness in terms of the documentary or other evidence he might produce to the committee.

What ensures that is an altogether different thing. Namely, when he is in the witness box and asked to provide to the committee under oath the documents in his possession, or his sources of information, or what is his knowledge and information referable to a given matter, he testifies under oath to that effect. So that the circumstance of whether a warrant was or ~~was~~ was not issued in respect of the initial attendance of this witness, would have only been significant if he failed to attend.

In my opinion and my advice to the committee ~~as to~~ ^{is} what is more significant, and I would urge you not to restrict certain examination along this line, is what was the witness asked, and what evidence did he provide in response to those questions, when he was asked those questions, and were the answers truly responsive.

Now the only thing left of the matter would be whether in terms of advance knowledge of the issues before the committee upon which he was to testify, the witness was sufficiently alert so as to inform himself and be prepared to answer. In that respect, again, whether he received a warrant, might have been significant if he was without knowledge otherwise as to those issues, but if the witness is clearly fixed with knowledge of the issues upon which he was intended to testify, the issues respecting which this committee was deliberating, then the receipt by him of a warrant really adds nothing to his ability to qualify

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12:35 - 12:40 pm

C.B.

(Mr. Shibley)

himself in terms of informing himself and being ready to testify.

Now beyond that, with respect to the particular document that we are dealing with, ~~if it was a document only incidentally important.~~

H 832 to follow

June 28/73

12:40-12:45 pm

C.B.

(Mr. Shibley)

If it was a document only incidentally important, if it were a document that had otherwise been produced out of the files of Ellis-Don in the first instance, if it was a document that was not in any way related to testimony given by the witness such that he might have considered it necessary to reference it when he was asked questions, then fine it would be unfair to pursue questioning along the lines which I commenced. But in the circumstances, as I say, I don't want the committee to be distracted, and I use that term advisedly, distracted by whether or not Mr. Cronyn received a summons, as to whether or not he was sufficiently informed as to the matters about which he was intended to give testimony when he made the answers to the questions that I read to this committee and to the witness this morning.

Mr. W. Newman: Mr. Chairman,

Mr. Chairman: Mr. Newman.

Mr. W. Newman: I think the witness has acknowledged the existence of ^{Exhibit} 175, a letter dated July 14 and we should proceed.

Mr. Chairman: Now, Mr. Eberle, I don't know whether you want to speak to Mr. Cronyn before you speak to us or not.

Mr. Eberle: I don't think so at the moment, Mr. Chairman, thank you. But there may be one or two things that I think perhaps should be brought to the attention of you, Mr. Chairman, and the committee so far. I confess that I'm labouring under a disadvantage as well, I first came into this matter about 12 o'clock last night. So that my opportunity to go into the background and to prepare has been extremely limited too.

My understanding of the situation, however, is

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12:40-12:45 pm

C.B.

(Mr. Eberle)

as follows: That for his previous attendance here Mr. Cronyn received a phone call about eight o'clock, I may have the hour wrong but it was ~~a~~ certainly in the evening and asked to be here to give evidence the following morning at 10 o'clock.

Now it seems to me that is not giving him, or ~~giving any witness in view of the scope~~ which this committee's investigation has covered, not giving him very much opportunity to prepare. That ~~a~~ phone call he received here in Toronto, and he was asked to give evidence here in Toronto. His office, as I understand it, is in London, and he was not asked, he may correct me on this, and I'm sure that he will if I'm in ~~a~~ error, but so far as I know he was not asked for any production of ~~documents~~ documents either then or on the occasion this week.

Now, Mr. Shibley has said that it is important what questions he was asked. Well of course it is. But it is also important to give the witness a chance to have some idea, some reasonably clear idea of the areas about which he is going to be questioned before anyone can reasonably expect him to have the whole thing in his mind. I'm sure that he has not taken a position before this committee that he didn't know the committee was dealing with the Hydro contract. But as to just what parts of it he ~~he~~ would be asked about, I think he made it clear he wasn't given any advance ~~a~~ notice. As he has said all that he was able to do was to skim through at least part of Mr. Smith's testimony while he was sitting here in the committee room trying to listen to the rest of Mr. Smith's testimony. ~~Both~~ Both of those operations going on at the same time.

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12:40-12:45pm
C.B.

(Mr. Eberle)

It is my submission to be fair to the witness that really ~~was~~ wasn't giving him a great deal of opportunity to prepare to assist the committee in the best possible manner.

He has made it clear that when he was giving his evidence this matter of the letter wasn't brought to his attention and it simply ~~wasn't~~ in his mind, he had in fact forgotten about it. He doesn't deny the existence of it, but to sort of put him on the spot in the vernacular now over a letter which was ~~never~~ never brought to his attention and with all respect to Mr. Shibley and the portions of the evidence he has read to him, it certainly doesn't in any way bring it very clear to him ~~that~~ as to that particular matter.

Mr. Shibley: Mr. Eberle, that letter was not known to exist.

Mr. Eberle: And bearing in mind that Mr. Cronyn's available time here today is limited and he is in no way desirous of not cooperating with the committee in ~~any~~ every way that he can.

Mr. Bullbrook: We should put to rest for Mr. Eberle's knowledge, without being offensive, Mr. Cronyn's time before this committee is not limited at all. Mr. Cronyn will take all the time before this committee that this committee requires of Mr. Cronyn.

Now I'd like Mr. Eberle to ~~state~~ clarify his comment that we didn't bring this letter to Mr. Cronyn's attention. I just can't understand what he means by that in support of his...

H 833 to follow

June 28, 1973
12.45-12.50p.m.
B.A.

H-833-1

(Mr. Bullbrook)

~~Conclude attention~~, I just can't understand what he means by that, in support of his request that we ~~decide to~~ *fair*.

Mr. Chairman: Mr. Eberle may not be fully ~~apprised~~ apprised of the background, either. Certainly Mr. Shibley didn't know of this letter until just the other day and at the time he was examining Mr. Cronyn I gather he didn't know of it at that point.

Mr. Eberle: I didn't intend to suggest that Mr. Shibley was holding back at that time on something that he knew about. My general understanding, from what I read in the ~~xx~~ newspapers is that this letter only came to light within the last day or two, ~~and~~ I didn't, perhaps, make myself clear, I didn't intend to suggest that something was being held back from Mr. Cronyn. I am simply pointing out that, as a matter of technique, ~~when~~ ~~he~~ he was not asked to produce documents, he was given very, very little time, really, to prepare for this and now to be, ~~in~~ sort of put on the spot because he didn't prepare himself as fully as he undoubtedly would ~~otherwise~~ have done. I think ~~it~~ ^{is} is, unconsciously perhaps, just ~~going~~ ^{is} ~~a little~~ ^{is} ~~bit~~ ^{is} further than perhaps ought to be.

Mr. Chairman: All right. Thank you very much. If there is no other comment, I will simply take on my own shoulders some of the responsibility in regard to the short notice. You will recall, Mr. ~~REN~~wick, that when we were discussing the matter of Speaker's warrants, I said I would hope we would be a little bit flexible in the matter, and maybe this is where we got into trouble with this particular witness. I think there was some advantage when Mr. ~~M~~ Smith named Mr. Cronyn as his source, in being able to follow with Mr. Cronyn's evidence in fairly quick succession. Now, you have, yourself, Mr. Renwick, used the phrase "~~operating in a totally fair manner~~" ^{operating in a totally fair manner}, Mr. Eberle has picked up the word "fair" as well, and it always strikes the heart of a

June 28, 1973
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Mr. Chairman: I think it really isn't, by our House procedures. I will allow some leniency on it if each member wants to speak once to it, *but only the once.*

Mr. Renwick: I only have one brief comment to make and that is that we have, by Act of the ~~Legislature~~ Legislature, ~~established~~ where we have a statutory power of decision ~~and~~ *we have* ~~and~~ by statute ~~is~~ required ~~some~~ *is to* subordinate body ~~of~~ the Legislature, to give as part of the minimum rules, adequate and proper notice and ~~as~~ ~~con~~ ~~stantly~~ ~~on~~ ~~some~~ ~~un~~ ~~agreed~~ ~~to~~ ~~fully~~ ~~engage~~ ~~the~~ ~~questions~~ ~~at~~ ~~before~~ ~~that~~ ~~on~~

(Tape H-834 follows)

June 28, 1973
12.50-12.55 pm
V.H.

(Mr. Renwick)

~~My estimate is required to be made before the committee can~~
~~to give a part of the committee the adequate notice~~

notice and an opportunity to come prepared to answer fully
 the questions. I think we as a committee of the Legislature,
 embarking in a sense upon a new area of responsibility in
 terms of committee work, must use common sense with respect
 to our adherence to that kind of ruling when matters such
 as the credibility of a witness are before us.

Mr. Chairman: Mr. Deans.

Mr. Deans: Just one comment. I don't want ~~to~~
 when this is over for anyone to say that because ~~we~~ weren't
 given adequate notice or adequate time to prepare that
 part of the reason for the obscurity of some of the evidence
 given was ~~because~~ ^{for that reason,} I want ~~to~~ be sure that there can be ~~no~~
~~no~~ no afterthought that a witness ~~has~~ ^{has} evidence that
 was not complete to this ^{for that reason,} committee.

Mr. W. Newman: Mr. Chairman, I only have one
 comment. I am ^{quite} sure all ~~one~~ witnesses that have been called
 and will be called are fairly knowledgeable of what we are
 discussing here in this committee by way of the news media
 and other means. I realize not specifically and I have to
 feel that if we do ~~it~~ for one witness, we are going to be
 in trouble with all our witnesses who feel they are not
 properly informed ~~and I have to oppose the ruling.~~

~~Mr. Chairman: I was gathering from the inputs~~

Mr. R.G. Hodgson: Mr. Chairman, I would like to
 still have an answer to my question on whether Mr. Cronyn
 is prepared to go on with the ~~and~~

Mr. Chairman: I was gathering from the inputs
 that Mr. Cronyn ~~had~~ ^{had} said he ~~was~~ not ~~be~~ prepared
 to go ahead, or ^{would} advise him not to.

Mr. Eberle: No. I did before the Chairman gave
 me that opportunity. I had asked Mr. Cronyn and he told me

(Mr. Eberle)

that he would like additional time to review the transcripts of the evidence under somewhat less pressure than really in the taxi coming up here this morning and waiting outside the committee room door.

Mr. Chairman: Mr. William Hodgson.

Mr. W. Hodgson: Yes, I was just going to make the comment that if Mr. Cronyn is not prepared to go ahead for lack of time I would have to agree with your ruling.

Mr. Chairman: ^{Does} Anybody ^{have} else any comments?

Mr. Gaunt: ~~Thank~~ Mr. Chairman, I just want to comment briefly in support of my colleague's challenge. I think we have to be fair to Mr. Cronyn and we have not only be fair but we have to appear to be fair to Mr. Cronyn. ~~At~~ the same time, I am concerned that by the action emanating from your ruling that we give preference to Mr. Cronyn in this respect and I really don't think that would be fair to the rest of the witnesses. We could then get into a position where some other witness says to us, "I'm sorry I have been extremely ~~ham~~ busy, I haven't had time to prepare myself, I want to beg off for a day or two". I think if we put up ourselves as a committee in that position, we are going to be continually, ~~x~~ or maybe not continually, but from time to time, faced with this situation. I don't think we should be placed in that position. ~~x~~ Having said that, I ~~was~~ repeat again I think we have to be fair to Mr. Cronyn, but I don't think that we ~~should~~ ~~we~~ should ~~we~~ give Mr. Cronyn preference over other witnesses.

Mr. Renwick: Mr. Chairman, I want to comment about that. From the file of letters which I saw yesterday which were sent from the committee requesting persons' attendance, as I understand it, all of the other witnesses. I haven't checked each one of them but certainly the file would indicate that ^a substantial number of letters have gone out. I would have assumed and I was very surprised this morning, as I think

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V H

(Mr. Renwick)

indicated, that such a ~~letter~~^{letter} had not gone to Mr. Cronyn

Mr. Chairman: Mr. Shibley, you can see how fair

I am being ~~fair~~

Mr. Bullbrook: Very much so. ~~very much so~~

Mr. Chairman: ^{in allowing everybody to} comment on that before we take
the vote ^{as to} whether the chairman is right or wrong.

Mr. Shibley: Mr. Chairman, may I say this? (Again) I
have a distinction in my mind ^{between} ~~about~~ what we are talking about
here. If we are talking about affording the witness an oppor-
tunity now to review transcript of what has been said ~~by~~

~~Mr. Shibley: Mr. Chairman, may I say this? (Again) I have a distinction in my mind about what we are talking about here. If we are talking about affording the witness an opportunity now to review transcript of what has been said by~~

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12.55 to 1.00 pm
DT

(Mr. Shibley)

by himself and Mrs. Shuttleworth and Mr. Grant and Mr. Smith, at this point of time, in order that he feel that he has been given every opportunity to respond to my further questioning, ~~and~~ ^{then} I favour the ~~the~~ affording of that kind of opportunity to the witness. In fact, I did a "stand-on-my-head" effort to provide him with that opportunity this morning by giving him those transcripts at 9.10 this morning.

If he and his counsel say that they have not had sufficient time to brief themselves for this examination, I would go along with a postponement, but what I do not want ~~inferred~~ ^{inferred} from that decision is that when this witness returns for a continuation of his examination that I am in any way intending to be restricted as to confronting the witness with what he or other witnesses have said on prior occasions, and also to ~~test~~ ^{testing} the ~~witness's~~ ^{witness's} assertion as to the reasons for his failure to recall or reference the letter of July 14. As long as it is understood that the failure to give him a summons in ~~that respect~~ ^{in that respect} respect of his first attendance, ~~may~~ ^{may} be a ~~circumstance~~ ^{circumstance} to be considered by the committee as to whether you accept it as the reason for his failure to produce the letter or references as opposed to whatever other questions and evidences ~~are elicited~~ ^{is elicited} in that respect, fine; but I do not, and I am most anxious, that the ruling that you are about to make is not ~~not~~ translated by Mr. Cronyn or his counsel as indicating that when Mr. Cronyn returns that he ~~is~~ ^{is} not going to be subjected to a cross-examination or an examination of any kind referable to his failure to reference that letter on his first attendance, because I view the matter as one respecting which the failure to issue a summons is not itself an explanation in that respect.

Now, on the other hand, as I say, if what he is asking for is what some committee members feel to be an extraordinary opportunity to review transcripts, because of the serious nature of the line that the examination is about to take, I go along with that. It may in any event prove academic.

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12.55 to 1.00 pm
DT

(Mr. Shibley)

It is 1 o'clock. If we recess for the usual period of time, we would only have a half hour if Mr. Cronyn is to be excused to attend an important function. ~~me~~ I would not want to start an examination of Mr. Cronyn and interrupt it a half hour after I commence it. I only have one other thing to alert the committee to.

Mr. Chairman: I don't want my ruling to be one of convenience but --

Mr. Shibley: I can tell you one other thing, that I have a logistical problem, which is this: It has been the case that this committee has had paraded before it a series of witnesses without interruption and in proper sequence in terms of the issue before it at the particular time. This has not been an easy task for Mr. Bell and ^{me} ~~I~~. I pressed counsel to Mr. Cronyn to have him produced today because I had hoped to complete this area of evidence today and because I considered it the proper sequence for the evidence to take.

I have not arranged to embark upon other areas of inquiry, the only other witness to this issue to follow Mr. Cronyn being Mr. McAuliffe, and I would prefer that his evidence not continue until I have completed Mr. Cronyn's examination, as that in such ~~circumstances~~ ^{circumstances} if you do rule that we are not to continue with Mr. Cronyn, and because I intended that his evidence and ~~and~~ that of Mr. McAuliffe would use up the balance of today, then in effect you're ^{are} ~~recessing~~ now until Tuesday morning.

Mr. Bullbrook: ~~My~~ I say in this respect that I would want to withdraw my ~~challenge~~ challenge if it were a question of convenience, but as you yourself put it, sir, and quite aptly, the ruling is a question of principle that guides us in connection with other witnesses. As a result, ~~the ruling is a question of principle that guides us in connection with other witnesses.~~
I therefore cannot, regrettably, withdraw the challenge to the ~~ruling~~ ruling, but ~~I am prepared if there are possibilities in the~~

(H-836 to follow)

June 28, 1973
1.00-1.05 pm
V.H.

(Mr. Bullbrook)

~~cannot raise a motion to withdraw the challenge~~
but I am prepared, if it is possible within the rules of the committee, that the ruling stand down and that we entertain a motion, in view of the circumstances, to adjourn. However, I leave that to you, Mr. Chairman; ~~and~~ if we can't do that, then I reluctantly would ask that you put the vote on the challenge to the ruling.

Mr. Chairman: Well there are two motions on the floor. I think we will take the motion for adjournment. All those in favour of the motion for adjournment?

Interjections by hon. members.

(Well, I think we should ask)
Mr. Deans: If you are going to call, ~~you should~~

~~Mr. Cronyn on Tuesday?~~

(That is what)
Mr. Renwick: I think we should ~~fix~~ *fix is that* time now

Mr. Chairman: Let the two of them get their heads together there.

Mr. Bullbrook: ~~What is concerning us~~ *is* that we have got ~~to~~ *used* Mr. Renwick, as he does always, ~~the~~ the great phrase that we want to convenience the witness, ~~but~~ *but he* ~~we~~ made it amply clear, *that* we are not here to convenience the witness and I think what Mr. Deans and Mr. Renwick are saying, *is that* Mr. Cronyn will be here ^{at} 10 o'clock Tuesday morning unless his health or other urgent circumstances dictate otherwise.

Mr. Renwick: That's what I am saying. That's the point.

planning
~~planning~~ Mr. Chairman: Well I just wondered, *in case* he was to fly to Europe.

Mr. Deans: Well, damnit, he can delay it.

~~Mr. Bullbrook:~~ ~~How long do you think he would~~

Mr. Chairman: Mr. Eberle, you may have heard the impressions of the committee while you were talking to Mr. Cronyn.

Mr. Eberle: Mr. Chairman, may I put it to you this way. Tuesday is a bad day for Mr. Cronyn ~~and~~

Mr. Deans: They are all bad!

Mr. Chairman: I think that is the basic thing.

The committee adjourned at 1.05 oclock p.m.

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Tuesday, July 3, 1973

Morning session

July 3, 1973
10.10-10.15 am
V.H.

Mr. Chairman: Ladies and gentlemen, we have a quorum here so I call the meeting to order and pass it over to Mr. Shibley.

Mr. Shibley: Mr. Cronyn, please. Mr. Cronyn, I ask you now to produce all the documents in your possession of whatever nature or kind which in any way relate to the issues before this committee.

Mr. Eberle: Mr. Chairman, perhaps before we get into any specific questioning, there are a few comments that Mr. Cronyn would like to make by way of introduction and I wonder if he might go ahead with those. I am not trying to cut off Mr. Shibley's line of questioning at all. I am sure we will get back to that.

Mr. Chairman: I think that's in order, yes. Mr. Cronyn.

Mr. Cronyn: Mr. Chairman, gentlemen of the committee, I would just like to make a few comments at the beginning of the proceedings. First of all, I would like to thank the committee for adjourning on Thursday as it gave me and my counsel an opportunity to review Hansard. Having read the evidence carefully, I have some sense of the six questions which the committee is concerning itself with. I think I have a better understanding of the matters that the committee is interested in.

From the very first contact by Mr. Smith, I took the stand that there was nothing I could do in the way of ~~helping~~ helping him in view of the job I had with the government. He recognized and accepted that position. It, therefore, became a matter of very small import to me and, because of my considerable involvement in numerous companies and my involvement in the Committee on Government Productivity and Task Force Hydro, I relegated the whole matter to a fairly low priority. I think most of the gentlemen here who have ~~seen~~ many matters on ~~their~~ ^{their} mind, practice the same custom ^{only}.

July 3, 1973

10.10-10.15 am
V.M.

(Mr. Cronyn)

concerning yourself or worrying about things that you can do something about.

In fact, it became a purely peripheral matter. I kept no records of my discussions and filed no copies of any correspondence. I had a search made of my files on Friday last and there is no copy of the 14th July letter or any other relevant correspondence. It is impossible for me to pinpoint the timing or content of conversations with Mr. Smith because of the frequency of contact with him, both business-wise and socially, and the low priority that I placed on the subject.

At the time of receiving the letter of 14th July, it appeared of no significance to me. It didn't ask me to do anything and there was nothing I could do in any case. I did not respond to it and to the best of my recollection threw the letter out. The significance of the letter to me was no more than the various discussions with Smith which were for the most part casual and impromptu.

As you know, I was given very short notice when I was first called to testify and no written material or terms of reference, etc., were presented or described to me. When detailed questions, for which I had no time to prepare, were presented to me, the letter simply did not come to mind. The contents of the letter make it clear that there would be no reason for me to conceal the letter and I would not do so in any event.

Mr. Chairman: Thank you Mr. Cronyn. Mr. Eberle, anything to add?

Mr. Eberle: No, I have nothing to add at the moment, Mr. Chairman. It just ~~seemed~~ ^{seemed to} Mr. Cronyn that we might get to this matter more readily if he made a few comments at the beginning. I think it is evident what the answer now is to the question Mr. Shibley first asked this morning.

Mr. Chairman: Thank you. Mr. Shibley.

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10.10-10.15 am
V.H.

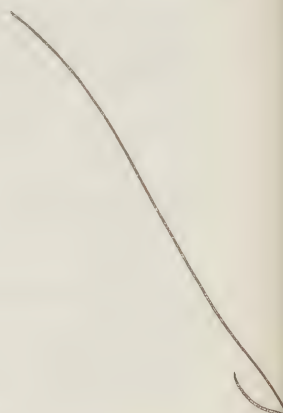
Mr. Shibley: Mr. Cronyn, following your review of the evidence and your in-depth examination of your files, did you come up with any documents which are in any way relevant to the issues that you say you now understand?

Mr. Cronyn: No, I did not sir.

Mr. Shibley: None at all?

Mr. Cronyn: Not at all.

Mr. Shibley: I intend later to come back to the matter of the letter of July 14, Mr. Cronyn. For the moment, I want to know whether you have considered



H-838 follows

July 3/73
10:15-10:20 pm
PLG

(Mr. Shibley)

~~the last week of November~~ your earlier testimony as to the timing of your discussions with Mr. Fleck, in the course of which, you advised him of the complaints of Ellis-Don. Have you reviewed that testimony?

Mr. Cronyn: Yes, I have.

Mr. Shibley: Yes. I might tell members of the committee that following Thursday's session, I came to the conclusion that Mr. Fleck would be a necessary witness and arranged for the Clerk to send him a letter. I have had discussions with Mr. Fleck, the first of which was on Friday of last week, preferable to the evidence that he can give.

Now, Mr. Cronyn, in order that your information be complete, before you are asked any questions, I think you should know that it is Mr. Fleck's intention to testify that the discussion between you and he, took place in the first half of November, 1972, and not during the last ~~xx~~ week of November, or early December, as you had ~~xx~~ testified previously.

Mr. Cronyn: No, I think I said in November or early December.

Mr. Shibley: I think you ~~repeatedly~~ repeatedly said to a number of questions that it was very likely that it was early December because you believed that your comments to him were triggered by Nixon's questions in the House.

Mr. Cronyn: Yes, I did say that, Sir.

Mr. Shibley: And then you later said, and I can give you the various references if you like, that it might have been the last week in November, but you thought it was early December because of Nixon's questions in the House. Isn't that correct?

Mr. Cronyn: That is correct.

Mr. Shibley: I want produced to you, for your further examination, certain exhibits, being Exhibit No. 113, dated

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PLG

(Mr. Shibley)

November 16, I believe, and also the memorandum which had been enclosed with that letter. I am sorry, it is Exhibit 114 that I am looking for, being the letter of November 16 from Mr. Gathercole to Mr. Davis, enclosing a copy of a memorandum prepared by Mr. Candy, and the memorandum was part of that exhibit. 114, please.

You will note Mr. Cronyn, that the ~~letter~~ letter, first of all, is dated November 16, 1972.

~~Mr. Shibley:~~ ^{Eberle;} Excuse me, Mr. Shibley, what has been put in front of Mr. Cronyn is dated November 15, 1972, and it is Exhibit 112.

Mr. Shibley: You haven't got the right document. It is Exhibit 114, dated November 16, and it is a ~~letter~~ letter to Premier Davis. ~~Attached~~

"Attached is the copy of a statement prepared by Mr. Candy, Commission Architect, ~~which~~ which sets out the essential elements of our new Ontario Head Office Building, very succinctly."

It goes on to make further observations. And in the ~~mem~~ memorandum which is attached, there is a duplicate copy of the memorandum. ~~attached~~

Tape H 839 follows



July 3, 1973
10.20 - 10.25 a.m.
M.R.

(Mr. Shibley)

~~The documents dated November 15, 1972, which is Exhibit 112,~~
which I ask be produced to you, dated November 15, 1972.

See those documents?

Mr. Cronyn: Yes, I do.

Mr. Shibley: ~~And~~ As I say, in order to make your own information complete, I tell you that Mr. Fleck relates the conversation he had with you referable to the Ellis-Don complaint as having taken place prior in point of time to the preparation of Mr. Candy's memorandum of November 15, 1972.

Mr. Cronyn: Well, that could be, sir. I have no firm fix on the date that I talked with him. I just gave you an approximation.

Mr. Shibley: Well, I think you gave us a series of answers and because I consider it a matter of importance as to when that conversation took place, I'll take you one step further, Mr. Cronyn, and tell you that the memorandum prepared by Mr. Candy, ~~on~~ dated November 15, was drafted. There is a draft in existence ^{of that nature} dated November 15th and ~~which~~ Mr. Fleck's testimony which is to come, I hope, tomorrow, is to the effect that your discussion with him respecting Ellis-Don took place prior to the preparation of that memorandum, that discussion took place within the first 13 days of November, 1972.

Now, in that connection I might give you your earlier ~~a~~ testimony because ^{of} you may not have directed your mind to this.

At Page 692, Page 2, about a quarter of the way down the page:

"Mr. Renwick: Are you in a position to identify the time and the occasion when you relayed to Mr. Fleck the conclusion which you had drawn from your discussion with Smith, or your conversations with Smith, that Hydro had done what appeared to be, or looked like, a sloppy job in letting the contract for the construction of the head office?

July 3, 1973
10.20 - 10.25 a.m.
M.R.

"Mr. Cronyn: Yes, I think that must have been subsequent to Mr. Nixon's questions and before the answers were tabled in the House, which would mean some time in early December.

"Mr. Renwick: Sometime in December?

"Mr. Cronyn: That's my best recollection of the time.

"Mr. Renwick: Again, my notes indicate, Mr. Cronyn, *that* sort of a fourth conversation in the chronology was in the summer or fall of 1972 and this conversation with Mr. Fleck took place in December of 1972, ~~that is~~

"Mr. Cronyn: That's my ~~late~~ best guess or my best estimate."

And then again on 692 - 3 } Mr. Renwick was asking a question about a quarter of the way down ▽

"Mr. Renwick: Was the conversation with Mr. Fleck in December before or after the - I think it was ^S your phrase - "famous telephone call" which you located as being December 12th or 13th or 14th, somewhere in that period? ~~December 12, 13 or 14~~
Mr. Cronyn: I would presume it was before it.

"Mr. ~~Cronyn~~: Before."

And then on the next page you are asked again a question by Mr. Renwick.

"Mr. Renwick: Mr. Smith, right. Using the dates December 12, 13 or 14, whatever that period of time was, you indicated, if my recollection is correct, that you called Mr. Smith on your own initiative to advise him, in your ~~own~~ capacity as a friend and a director, that ~~he~~ he could expect a call from the Globe and Mail because the Globe and Mail was investigating this question. Now, was that conjecture on your part or did you ^{have} specific ^{information} [and so on]... ?

"Mr. Cronyn: No, I had no specific information. There was a rumour around they were investigating and, as they were investigating everything else, it seemed a reasonable bet. And this was subsequent to Mr. ~~Nixon~~ Nixon's questions in the House."

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10:25 - 10:30 am.
M.S.

(Mr. Shibley)

~~Mr. Shibley: Mr. Renwick, excuse me, before you leave that topic, I might assist you ... and so on. "Do I take it, Mr. Cronyn, that you advised Mr. Fleck that Hydro had badly handled this transaction, on the occasion of a discussion with him in December, 1972?"~~

~~Mr. Shibley:~~ Then, on the bottom of that page, I asked you the question:

"Mr. Shibley: Mr. Renwick, excuse me, before you leave that topic, I might assist you ..." and so on. "Do I take it, Mr. Cronyn, that you advised Mr. Fleck that Hydro had badly handled this transaction, on the occasion of a discussion with him in December, 1972?"

"Mr. Cronyn: That's my best recollection.

"Mr. Shibley: And about what time in" (and this should be December) "September did you make that communication to Mr. Fleck?"

"Mr. Cronyn: As I say, I can't pin-point the date at all. My best recollection, it was either late November or early December.

"Mr. Shibley: I see.

"Mr. Cronyn: I am assuming maybe it was early December because Mr. Nixon's questions in the House would perhaps prompt me to make such a comment."

~~Now~~ Then, to make it complete, at 698, page one, ~~towards~~ the bottom of the page, I'm questioning you again:

"Mr. Shibley: Was it subsequent in point of time to those questions being tabled that you also spoke to Mr. Fleck?"

"Mr. Cronyn: That I am not sure of.

"Mr. Shibley: Can you give me the sequence of whether you spoke to Fleck first and then spoke to Mr. Smith?"

"Mr. Cronyn: I think I had spoken to Fleck before I spoke to Mr. Smith.

"Mr. Shibley: Did anything ~~was~~

"Mr. Cronyn: But there is no connection between the two and there is a time lapse ~~was~~

July 3/73
10:25 - 10:30 am.
M.S.

"Mr. Shibley: Well, that's what I wanted to know. Did anything Mr. Fleck say to you contribute to your decision to call Mr. Smith?

"Mr. Cronyn: None whatsoever."

I think I've got all there is on that one.

Now, having regard for what I've told you I expect will be Mr. Fleck's evidence, that he relates his conversation in point of time to a request by him that the memorandum of November 15, a statement in narrative form, be prepared and that he came to the decision to make that request based upon two circumstances: One, the conversation that he had had with you; ~~and two, the rumor that the Globe was investigating;~~ ~~and~~ having regard for the fact that the draft of this document was dated November 13, I have concluded, and I would like your comments, Mr. Cronyn, that the conversation that you had with Mr. Fleck took place within the first 13 days of November, 1972.

Mr. Cronyn: ~~I don't know whether I~~ I don't know whether I can confirm that or not. My memory is as I laid it out here. I can't contest it. Maybe that was when it happened.

Mr. Shibley: Have you had any conversations with anyone respecting the timing of that discussion with Mr. Fleck?

Mr. Cronyn: Yes. I simply told him the timing that I had said.

Mr. Shibley: Yes. When did you have that discussion?

Mr. Cronyn: Well, it would be subsequent to my giving evidence.

Mr. Shibley: Can you be more precise? On what day over this weekend did you have conversation with Mr. Fleck? In this respect

Mr. Cronyn: Well, I'm talking about the subsequent to this testimony that I talked about. My first testimony.

Mr. Shibley: Oh, I see. Have you spoken to him since your testimony on Thursday?

Mr. Cronyn: Yes, I have.

H 840 - 3

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M.S.

Mr. Shibley: And have you discussed the matter of the timing of your discussion with him, wherein you told him of Ellis-Don's complaints?

Mr. Cronyn: Yes. Well, he said exactly what you've said to me.

Mr. Shibley: Yes. So ~~that~~ you yourself are able to confirm ~~that~~ what I have reported to this committee would be his evidence in respect of that timing?

~~_____~~

~~_____~~

Tape H 841 follows

July 3/73
10:30-10:35 am
PLG

(Mr. Shibley)

~~Mr. Eberle: I think his evidence is clear. He has given his recollection.~~

Mr. Eberle: Surely, Mr. Chairman, that is not a proper question. I probably should have objected to Mr. Shibley trying to ask Mr. Cronyn to confirm or otherwise something which Mr. Shibley says, Mr. Fleck ^{MAY SAY AT} ~~some time in the future.~~

Mr. Shibley: The difficulty Mr. Eberle is,

Mr. Eberle: I think his evidence is clear. He has given his recollection.

Mr. Shibley: The difficulty Mr. Eberle is, it is chicken and egg. Mr. Cronyn is giving his evidence first and unless you would like me to recall him a third time, I am attempting, by giving him in advance what will be Mr. Fleck's ¹ testimony to equip this witness to give his version of what was the timing of that discussion.

Mr. Eberle: Mr. Chairman, he has already given² his version. He ~~has~~ made it quite clear in the repeated times that he was asked about it by Mr. Shibley when he first gave evidence as we have heard reread in the transcript this morning, that he gave his evidence to his best recollection. I think he used that phrase on a number of occasions. I am really unable to see how much more Mr. Shibley thinks he is going to get, really, from a practical point of view.

Mr. Shibley: What I want to know, Mr. Cronyn, is whether in light of the information which Mr. Fleck has provided to you, as to his recollection and circumstances surrounding that discussion, do you now have any more precise memory, or can you assist this committee further in pinpointing the time of your discussion with him?

Mr. Cronyn: No I cannot sir. All I can say is it could have been earlier in November, but I have no way of pinpointing it at all. I gave the evidence to the best of my recollection. Now it could be, ~~some time in the future~~ if you said to me, "could it have been in the first two weeks of November?"

July 3/73
10:30-10:35 am
PLG

(Mr. Cronyn)

¹⁵ Sure, it could have been. I just don't have a firm enough fix on it.

Mr. Shibley: Well then, you also indicated in your previous testimony that ~~but~~ in the course of that discussion with Mr. Fleck, you gave him the facts without hearsay, the gist of the complaints of Ellis-Don. Is that so?

Mr. Cronyn: Yes Sir.

Mr. Shibley: So that if his memory of the time when you imparted that information is correct, then he would know of the basis of complaint in point of fact, as opposed to what you call hearsay, as early as the first part of November, 1972?

Mr. Cronyn: If that is when I spoke to him, yes.

Mr. Shibley: Now you also testified previously that you had a conversation with the Premier prior to your conversation with Mr. Fleck, and that that conversation also took place in November of 1972. Is that correct?

Mr. Cronyn: Yes Sir.

Mr. Shibley: So that if your conversation with Mr. Fleck took place and we'll try to get more precise evidence ^{perhaps from} ~~about~~ Mr. Gathercole and Mr. Candy as to when Mr. Fleck requested the preparation of the narrative, if you had your discussion with the Premier in November and it was prior to the ~~the~~ discussion with Mr. Fleck, then your discussion with the Premier was also within the first 13 days of November, 1972. Is that correct?

Mr. Cronyn: If that was when I talked to Mr. Fleck.

Mr. Shibley: I want to make it clear that your earlier evidence was that your discussions with the Premier were in respect ~~of the Hydro building~~ of the Hydro building, but in another context altogether.

Mr. Cronyn: That is correct.

Mr. Shibley: It had nothing to do with the mode of letting the contract to Mr. Moog's company?

Mr. Cronyn: That is correct.

Tape 842 fol¹⁷

July 3, 1973
10.35-10.40 am
V.H.

(Mr. Shibley)

It will be a further question for you to decide, of course, whether Mr. Cronyn called Mr. Smith prior to Mr. Smith calling Mr. Manthorpe, ^{or} ~~the~~ ^{it} evidence in that respect being the content of the conversation he had had with Mr. Manthorpe ^{wherein} ~~that~~ he was already referencing a telephone communication from someone close to the Premier. I would put it to you that there is evidence at this point of time that the sequence at least was that Mr. Cronyn had already placed his ~~call~~ call to Mr. Smith before Mr. Smith had called Mr. Manthorpe. It becomes important therefore to determine whether the call to Mr. Manthorpe from Smith ~~was~~ ^{took} placed before or after December 1, 1972, and then to consider, of course, the events prior, in point of time, to that call which led to its making.

Now, again, Mr. Cronyn, I have outlined that to the committee and actually wanted you to understand it also, so as to make certain that you knew in advance what it is about which I am concerned.

Now you know that Mr. Manthorpe said that Smith called him either during the last week of November or the first week -- or early December. ~~That is all that is known at this time.~~

~~100-1000~~
H-843 follows

July 3/73
10.40-10.45 a.m.
E.M.

(Mr. Shibley)

~~That~~ ^T that accords in large measure with Smith's best recollection of when that telephone call was made. I am going to make an effort through other witnesses to be more precise. But having regard for the circumstances ^{ed} that there is confusion at the moment as to when Mr. Smith called Mr. Manthorpe, whether it was in the latter part of November or the early part of December, have you any different recollection today than you had when you gave your testimony originally as to the time when you placed your famous phone call to Mr. Smith?

Mr. Cronyn: No, I don't have any better recollection than the one I gave you before which was subsequent to the questions being tabled in the House and prior to the answers being ~~given~~ given, which means somewhere between the 1st of December and I - is it the 14th?

Mr. Shibley: Well, I will assist you if you wish, Mr. Cronyn. At page 678 of Hansard, page 2, about two thirds down the page; ~~Mr. Shibley~~

⁶ Mr. Shibley: Now then, what was your next communication with Mr. Smith?

Mr. Cronyn: The next one would have been the ~~same~~ famous phone call.

Mr. Shibley: The famous phone call, when was this made?

Mr. Cronyn: Well, it must have been made subsequent to December 12 which I believe was the date that it was on the order paper. Questions were on the order paper for Mr. Nixon the 12th or 13th or 14th, somewhere in there in December.

Mr. Shibley: Yes.

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10.40-10.45 a.m.
E.M.

Mr. Cronyn: And this was published and known
and also there was a rumour around the place that
the Globe and Makl was going to do an investigation
of this ~~and~~ contract."

Stopping there: By ~~himself~~ this time you had heard of the rumour.

"And Nixon's questions included: 'Who are the
other contractors, etc. involved?'"

"Mr. Shibley: Yes. Now ^{how} would you be alerted to
what was on the order paper?"

"Mr. Cronyn: I read it in the paper."

Now, again stopping there, I must tell you that
the questions went on the order paper on the ~~and~~ afternoon of
December 1, 1973. Mr. Nixon posed ^{the} questions and they were tabled
that afternoon. Can you assist the committee as to whether you
read any newspaper account referable to the tabling of the
questions?

Mr. Cronyn: Yes, that is what I was referring to
here. I have obviously got the dates wrong of when the questions
were tabled, I really have given you the dates from later evidence
I see of when the questions were ~~when~~ the answers were tabled.
But my reference was to when the questions were tabled.

Mr. Shibley: Well now, Mr. Cronyn, do I ~~take~~ take
it then that you became aware of the questions in a paper published
on December 2nd?

Mr. Cronyn: Well, I presume it was, I have really
no idea of what date ---

Mr. Shibley: Well, then, again on page 692 of your
testimony, Mr. Renwick came back in the same matter and you notice
a quarter of the way down the page:

Fleck
"Was the conversation with Mr. ~~Renwick~~ in December

(Mr.Shibley)

843/
H-33-3

July 3/73
10.40-10.45 a.m.
E.M.

"before or after the - I think it was your phrase - 'famous telephone call' which you located as being December 12 or 13, or 14, somewhere in that period?

"Mr. Cronyn: I would presume it was before it.

"Mr. Renwick: Before?

"Mr. Cronyn: Yes, I was still referring back to the late summer-early fall comments of Mr. Smith.

"Mr. Renwick: You indicated, Mr. Cronyn, that your telephone call on December 12, 13 or 14 was in that area.

"Mr. Cronyn: It was subsequent to Mr. Nixon's questions and before the answers were tabled in the House.

"Mr. Renwick: That you spoke with him?

"Mr. Cronyn: I can't pin down the date.

"Mr. Renwick: But you do recall that ~~later~~ there was only one occasion that you spoke with the Premier dealing with any matter referable to the head office of Hydro?

"Mr. Cronyn: That is correct."

~~Mr. Shibley: Where are we now, Mr. Shibley, I am afraid I am lost. WE got to the bottom of page 692-3 - all right, forget it~~

(Tape 844 follows)

July 3, 1973
10.45 -10.50 a.m.
M.R.

(Mr. Shibley)

~~Answer: "What's the question?"~~

Mr. Eberle: Excuse me, Mr. Shibley. I'm afraid I'm lost. We got to the bottom of Page 692-3.

Mr. Shibley: All right, forget it.

Mr. Eberle: And I don't know where you went from there.

Mr. Shibley: You don't need anymore than I've given ~~me~~ to you. What I want to know now is this, ~~what~~ is your present recollection of when you first knew of the rumour of an investigation and ~~what that investigation consisted of.~~ ~~I know~~ and your recollection as to what first prompted you to call ~~Mr. Cronyn~~ or speak to Mr. Smith, the report in the newspapers on December 2nd of the questions tabled by Mr. ~~Nixon~~ Nixon in the House?

Mr. Cronyn: Well I don't know the date.

Mr. Shibley: It might ~~be~~ have been later than that?

Mr. Cronyn: It could have been.

Mr. Shibley: Mr. Cronyn, have you any knowledge or information as to whether your call to Mr. Smith preceded his call to Mr. Manthorpe - his first call to Mr. Manthorpe?

Mr. Cronyn: No, sir, I don't. I didn't know Mr. Smith had called Mr. Manthorpe until I read it in the evidence.

Mr. Shibley: And you obtained no further information in that respect since these proceedings were undertaken?

Mr. Cronyn: No, I have not, sir.

Mr. Shibley: I might tell you that Mr. Manthorpe ultimately gave testimony that it was definitely in the week of November 27th that he received the first call from Mr. Smith. And if that be so, then your call, if it provoked the call by Smith to the Globe, your call would have occurred during the period between your conversations with Fleck in the first 13 days of November and the time of Smith's call to Mr. Manthorpe during the week of November 27th. Do you follow that?

July 3, 1973
10.45 - 10.50 a.m.
M.R.

Mr. Cronyn: No, I do not, sir.

Mr. Shibley: I'm trying to get your evidence a matter of record as to the time of your call to Smith against the background of what has been in evidence and will it be in evidence given by Mr. Fleck.

Mr. Manthorpe has said that he got a call from Smith during the week of November 27th, wherein he referenced the fact that someone close to the Premier had called him and told him to be quiet.

Mr. Genest: Smith doesn't say that.

Mr. Eberle: That's only part of the evidence.

Mr. Shibley: Mr. Manthorpe says that.

Mr. Eberle: Mr. Chairman, I really think it's rather a fruitless thing for Mr. Shibley to try to examine Mr. Cronyn on conversations between Manthorpe and Smith about which they can't agree and about which Mr. Cronyn knows nothing.

Mr. Shibley: Well, what I want to know really is whether Mr. Cronyn has any better recollection, because I realize how difficult it is to go back and establish a point of time.
~~but we have not got a more precise element of time~~

July 3/73
10:50 = 10:55 am.
M.S.

(Mr. Shibley)

~~But we've now got a~~ But we've now got a more precise element of time as to certain things that transpired. I want to know whether it's possible, or even probable, that you called Mr. Smith sometime between the first part of November, the first 13 days of November, 1972, and November 27, 1972?

Mr. Cronyn: Sir, my best recollection is that I called him subsequent to the questions of Mr. Nixon being tabled in the House. That's my best recollection.

Mr. Shibley: When you spoke to Mr. Smith, you were then talking only about a rumour that the Globe might be investigating. Is that correct?

Mr. Cronyn: That is correct.

Mr. Shibley: By the time Mr. Nixon's questions were tabled in the House, ~~it~~ was not the enquiry into the Canada Square-Hydro contract a fact of life, as opposed to a matter of mere rumour?

Mr. Cronyn: Enquiry by the Globe?

Mr. Shibley: Yes. By anybody.

Mr. Cronyn: I don't think it was -- or at least I didn't know it was a matter of fact. *By anybody*

Mr. Shibley: What I'm trying to ascertain, Mr. Cronyn, is when you commented to Mr. Smith that there was a rumour, what is your evidence as to the circumstances that the matter had already been tabled in the House?

Mr. Cronyn: Aren't they two different things? I'm not sure I follow ~~what~~ what's your question?

Mr. Shibley: Well, that may be your answer, Mr. Cronyn. I'm just wondering why you discussed it with Mr. Smith in terms of a ~~rumoured~~ rumoured investigation by the Globe, as opposed to the fact that questions had been tabled by Mr. Nixon in the House, if those questions had already been tabled at the time you called Smith?

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10:50 - 10:55 am.
M.S.

Mr. Cronyn: Well, as I think I said before, I didn't really know whether Mr. Smith would have read that the questions were tabled in the House.

Mr. Shibley: No, that's not what I'm asking you. When you called Mr. Smith, you told him that there was a rumour the Globe might be doing an investigation. Did you also tell him, at that time, that Mr. Nixon had tabled questions in the House?

Mr. Cronyn: I think that's my testimony.

Mr. Eberle: If you would look at page 679, Mr. Shibley, I think you'll find that.

Mr. Shibley: 679, what page? That is tape 679.

Mr. Eberle: 679-1, about the middle of the page:

"Mr. Cronyn: My purpose was, as I've stated before, as a director of the company, and a friend of Mr. Smith, the purpose of calling was to alert him to the fact that the press could easily be calling him as a result of Mr. Nixon's questions in the House, or as a result of an investigation that was rumoured by the Globe and Mail."

Mr. Shibley: I want to know, did you tell Smith, at that time, that the questions were tabled in the House?

Mr. Cronyn: To the best of my recollection I did, sir.

Mr. Shibley: I see. I would like to reference Mr. Smith's testimony at tape 629, page two ~~of the~~.

Tape H 846 follows

July 3, 1973
10.55-1100 am
V.H.

~~(Mr. Shibley)~~

~~page 2 of 2~~

Mr. Renwick: What page is that, Mr. Shibley?

Mr. Shibley: ~~Six twenty nine~~ 629.

Mr. Renwick: ~~Six twenty nine~~ 629?

Mr. Shibley: Page 2. It's the evidence of Mr. Smith.

"Mr. Smith: I had a phone call from a close friend who said that the matter would be coming up in the House and that I might be getting a call from the Globe and Mail.

"Mr. Shibley: When did you receive that communication?

"Mr. Smith: I thought it was in January and when I checked with the person who made the call to me, it was in December, 1972.

"Mr. Shibley: In December of 1972? Now you say you received a phone call from a close friend telling you to expect this contact?

"Mr. Smith: He said it might be coming up in the House about Hydro and I might be getting a call from the Globe and Mail."

~~Now~~ Do you notice, Mr. Cronyn, that Mr. Smith's testimony at that point at least is that you told him it might be coming up in the House, not that it had been tabled in the House as a matter of questions put by Mr. ~~Mr.~~ Nixon.

Mr. Eberle: What is your question Mr. Shibley?

Mr. Shibley: My question really is to ask him again whether, when he discussed the matter with Mr. Smith, he told him that Mr. ~~Mr.~~ Nixon had tabled questions in the House or merely was telling him that the matter might be coming up in the House, as Mr. Smith has said.

Mr. Cronyn: My recollection ~~is~~ ^{was} that I said that questions had been tabled ~~that had been tabled~~ and it ~~would~~ ^{will} be coming up in the House.

July 3, 1973
10.55-11.00 am
V.H.

Mr. Shibley: You ~~must~~ realize, of course, again Mr. Cronyn the significance of the evidence in this respect as to the point of time when you made that call.

Mr. Cronyn: I am not quite ^{sure} that I do but I am trying to help you.

Mr. Shibley: Well, if you told Mr. Smith ~~that~~ that it might be coming up in the House, that would be before December 1. If you told Mr. Smith that the questions had already been tabled in the House, then it would be after December 1, 1972.

Mr. Cronyn: And that's the evidence I have given, sir.

Mr. Allan: Mr. Chairman, with very great respect, isn't this perhaps a very reasonable statement? Tabling something in the House ~~and~~ coming up in the House indicates a discussion in the House. Aren't they two different matters?

Mr. Chairman: It may very well be and I am not so sure that Mr. Cronyn would understand the difference. I am not so sure that I understand the difference myself. When the questions are tabled of course the answers are to come up later on.

Mr. Allan: Well, the answers may never be discussed. It may never come up in the House as a result of the answers being tabled.

Mr. Chairman: ^{Now} Particularly if the answers are given the last day of the House.

Mr. W. Hodgson: ~~That's right~~ That's right.

Mr. Genest: Mr. Chairman, my trouble with this whole evidence is to get its significance to the purposes of this enquiry. I fail utterly to follow it.

Mr. Walker: I agree.

Mr. Henwick: ~~That is precisely the point~~ ^{Mr. Chairman} That is precisely the point, Mr. Chairman.

Mr. Walker: ^{As was} I can't understand what the importance is, perhaps I am missing something. Perhaps I am a bit obtuse here. What is the significance of these dates? The question that Mr. Cronyn ~~was~~ brought before us ^{is} the question of the

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10.55-11.00 am
V.H.

(Mr. Walker)

threat primarily. Smith claims that Cronyn had made a threat ~~and~~ pardon me, Smith claimed that Cronyn was the one to whom he was referring and the threat was attached to that particular quote.

Mr. Eberle: I don't think ~~it~~^{that} is necessary ~~←~~ I think Smith denies it.

Mr. Renwick: No. No.

Mr. Chairman: Carry on, Mr. Walker. Let ~~us~~ Mr. Walker continue.

Mr. Walker: Let me finish, if you don't mind. Now the point that I cannot understand is that ~~no~~one is saying, ~~no~~one has alleged ~~that~~, other than the Globe and Mail on the 30th April, 1973, that this mysterious person has made a threat, ~~and~~ to whom we have now related Cronyn. Now Cronyn denies it. Smith denies it. In fact, there appears to be some semblance of connection between the ~~Barnick~~ Barnicke letter which would seem to substantiate that if that last portion, ~~those~~^{those} words in that quote, can be considered a threat ~~that~~ it might have come or quite likely have come from Barnicke. It all seems to fit in. Now why are we worried about all these dates? I just can't understand it. I get the feeling here that we are going ~~to~~ ~~have~~ ~~some~~ ~~kind~~ ~~of~~ ~~problem~~.

H-847 follows

July 3/73
11.00 to 11.05 am
fvk

(Mr. Walker)

~~all these dates~~ tangents that are taking us into ^{detail} areas, but so what?

Mr. Shibley: Mr. Chairman, I think

Mr. Chairman: Mr. Shibley answer the question.

Mr. Shibley: it's my responsibility for having posed these questions and a number of members have asked for the significance, I'd be glad to outline it to you.

I am attempting to have evidence produced before this committee that will enable to reach a conclusion as to what motivated Mr. Cronyn to make his famous phone call to Mr. Smith. Was it the discussion that he had with Mr. Fleck in the first 13 days of November, or was it the fact that Mr. Nixon had tabled questions in the House on December 1?

Mr. Genest: So what!

Mr. Shibley: If I may finish please.

If the sequence was a meeting with Mr. Fleck in the first 13 days of November wherein Mr. Cronyn told Mr. Fleck of the factual complaints that Ellis-Don was posing, Mr. Fleck then combines that information with information to the effect that the Globe was considering an investigation and calls for the preparation of a written narrative, the first draft of which is dated November 13. If the next sequence is a phone call from Mr. Smith - I'm sorry - from Mr. Cronyn to Mr. Smith and the next incident is a call from Mr. Smith to Mr. Manthorpe, and, in that respect, you will have to make a decision, a finding, as to whether that was the sequence and, bearing in mind that Mr. Manthorpe and Mr. Smith both confirmed that part of the content of that discussion was that Mr. Smith had already received a call from someone close to the Premier, who Mr. Smith later identified as being Mr. Cronyn, the sequence then would be, next step, Mr. Cronyn calls Mr. Smith. Then Mr. Smith calls Mr. Manthorpe. Did Mr. Cronyn call Mr. Smith because of his conversation with Mr. Fleck in the first 13 days of November, or did Mr. Cronyn call Mr. Smith because of the question published

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11.00 to 11.05 am
fvk

(Mr. Shibley)

in the House by Mr. Nixon?

... it makes
Mr. Walker: With respect, ~~the call was made~~

Mr. Shibley: Well, it's of importance in this respect,

that if what motivated Mr. Cronyn to make the call was only the publication of Mr. Nixon's questions it is, I would have thought, a different circumstance than if he ~~was~~ called by reason of, or ~~because~~ consequential upon, his discussions with Mr. Fleck.

Mr. Walker: I fail to see the important distinction that you're drawing. If you take the information that he made the call as a result of discussions with Fleck, so what? What's the consequence of it? There's certainly no influence by Smith or Cronyn or anybody on the awarding of the contract.

Mr. Shibley: Mr. Walker, I'm not even going to comment on that question. The importance is agreed ~~to~~ upon ~~as~~ if the ~~matter~~ matter, in the mind of this ~~committee~~ committee, is insignificant that the call from Mr. Cronyn to Mr. Smith followed upon his conversations with Mr. Fleck rather than upon the publishing of Mr. Nixon's questions ~~and~~ then I will stop pursuing this area of questioning.

Mr. Walker: I just think it's tangential.

Mr. Renwick: Mr. Chairman -

Mr. Walker: We're going to be here all summer. We'll never get a report.

Mr. Chairman: Mr. Renwick.

Mr. Renwick: We may very well be here all summer and I can understand that Mr. Walker has been pressing to have this matter concluded expeditiously, and I certainly agree with him that we want to do it. I have no hesitation in saying to this committee that in my judgement this ^{is} ~~is~~ of the essence of what ~~we~~ we are talking about and I, for one, wish ~~to~~ Mr. Shibley to continue with the questioning ~~which~~ which is involved in these problems because the ~~conclusions present~~

(Tape H-848 follows)

July 3/73
11:05-11:10 am
PLG

(Mr. Renwick)

~~continue with the questioning which is involved in these~~
~~problems~~ ~~and~~ the conclusions which we have to draw are ones which are going to affect the substance of our report. I think Mr. Shibley has expressed the problems within the ambit of the evidence which is before us. The questions which Mr. Walker has raised are matters which would appear to indicate that he has drawn conclusions from the evidence as given at the present time, which I think can be quite disputed as to whether or not we are in a position to draw them; but there is no question in my mind that it is absolutely essential to establish the sequence of the events from the time of the awarding of the contract ~~in~~ and its actual execution, which was on the first of November of 1972 ^{5 am} ~~on~~ that point in time until the questions were tabled -- the answers to the questions were tabled in the House on December 14. If all of Mr. Cronyn's activities related to his connection with Mr. Smith ^{are} ~~on~~ the basis of public matters, that is one thing. If they were on the basis of private discussions, one or more with Mr. Fleck and others, then it is an entirely different matter. That is the way I see the significance of the ~~...~~

Mr. Chairman: Well, as I see it, if, depending on the dates, there is an inference involved.

Mr. Walker: Inference of what?

Mr. Chairman: The inferences are not necessarily conclusive.

Mr. Walker: Not important.

Mr. Renwick: I ~~disagree with~~ disagree. ~~with~~ Mr. Chairman, I would ask the committee, rather than for us to get into an involved discussion on difficult problems, no one says that any inference is conclusive, but our problem is going to be that we are not going to be in a position to say that we couldn't draw any inference. We are going to have to draw the inference one way or another, and we cannot do it unless we have the circumstances in which the incidents took place, and I think that it is perfectly

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11:05-11:10 am
PLG

(Mr. Renwick)

clear that if the events which transpired from the first of November on were in the private sphere, that is one thing; if they were in the public sphere and that that is the only explanation of them, then that is an entirely different matter. I would respectfully ask my colleagues on the committee to allow Mr. Shibley to proceed with the questioning as he sees it, because I can only conclude that it is ~~a simple~~ essential to my consideration of the problems before the committee.

Mr. Chairman: Any other comments?

Mr. Shibley: I direct the committee's attention to this witness's evidence on page 698, page 1; Tape 698 page 1, ~~about~~ ^{about} two-thirds down the ~~page~~ page.

"Mr. Shibley: Was it subsequent in point of time, to those questions being tabled that you also spoke to Mr. Fleck?

"Mr. Cronyn: That I am not sure of.

"Mr. Shibley: Can you give me the sequence of whether you spoke to Fleck first and then spoke to Mr. Smith?

"Mr. Cronyn: I think I ~~had~~ ^{lead} spoken to Fleck before I spoke to Mr. Smith.

"Mr. Shibley: Did anything ~~else~~ " and then Mr. Cronyn volunteered,

"But there is no a connection between the two and there is a time lapse.

"Mr. Shibley: Well, that is what I ~~want~~ ^{wanted} to know Did anything Mr. Fleck say to you contribute to your decision to call Mr. Smith?

"Mr. Cronyn: None whatsoever."

And it is that question that I am addressing myself to at the moment, Mr. Chairman.

Mr. Chairman: Well, I think that you should proceed, Mr. Shibley, but I do appreciate the length of time that we are spending on this

Tape 849 follows

July 3, 1973
11.10 - 11.15 a.m.
M.R.

(Mr. Chairman)

~~I do appreciate the length of time that we are spending on this chronology and I don't know the answer to it. If~~
Mr. Cronyn says he doesn't recall the sequence; I know you are trying to help him recall it, I'm just going to suggest that you proceed but remember that somewhere along the line we must have to call a halt to this.

Mr. Shibley: Mr. Chairman, I might remind the committee also that the reason I am back at this topic is that whereas Mr. Cronyn had previously said that he assumed it was early December because of Nixon's questions which prompted him to make the comment to Mr. Fleck, Mr. Fleck has now come forward to me and - I shouldn't say come forward - in ~~the~~ discussion I've had with him, and by referencing Exhibit 112 his recollection of the timing of that conversation does not accord with this witness's recollection ~~and it moves it back into early November~~. November, whereas this witness earlier had said that his discussions with Fleck were subsequent to Nixon's questions, on the assumption that ^{it was} ~~it was~~ ¹⁶ ~~Nixon's~~ questions that prompted me to make such a comment."

Now, that difference in the evidence of this ~~witness~~ witness and what Mr. Fleck will give, in respect of the timing of that discussion, has led me back to asking these questions.

~~Mr. Chairman, I realize~~ ^{why} ~~again~~ ^{Again,} though, Mr. Cronyn on most of his statements said to the best of his recollection.

Now, he was recalling it in December. Now you've come forward with - after speaking to Mr. Fleck - ~~it was~~ ^{probably} it was in early November, and you are trying to elicit from Mr. Cronyn ways of tagging it down more definitely ~~and~~.

Mr. Shibley: That is right.

Mr. Chairman: And I think that should be allowed to proceed a little longer, but, as I say, somewhere along the line, we are going to come to the point where you have tried as hard as you can to get this tied down and you may or may not be

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M.R.

(Mr. Chairman)

successful on it.

Now, Mr. Brownlie, you wanted to make some comment?

Mr. Brownlie: ~~Mr.~~ Mr. Chairman, yes, particularly in view of the fact that one of the members of the committee, with all respect, has once again used that word "threat."

I feel it is incumbent upon me to say something on ~~a~~ behalf of my client, Mr. Smith. I'm sure that Mr. Shibley has good reason for having said so but in his explanation to the committee just a moment ago he ~~did~~ identified Mr. Cronyn as being the person that Mr. Smith had in mind when he spoke to Mr. Manthorpe.

Now, that's obviously germaine if that line of questioning he was ~~was~~ pursuing was to go on. I'm quite sure he's got reason for it ~~and~~.

Mr. Shibley: There is all kinds of evidence of it, Mr. Brownlie.

Mr. Brownlie: All the time I have been present at this hearing, my understanding of Mr. Smith's testimony is that he could not have had Mr. Cronyn in mind at the time he spoke to Mr. Manthorpe. He had Mr. Cronyn in mind ~~and~~.

Mr. Renwick: Mr. Chairman, with great respect, those are matters ^{on} which the committee is going to have to draw their conclusions from the evidence which is elicited from the witnesses under oath.

Now, if there is an appropriate time at the end for counsel to make submissions on behalf of their individual clients, that's fine, but the matter of evidence with respect to whether or not Mr. Smith, in the two events, if the evidence supports them, was ~~referring~~ referring to Mr. Cronyn and Mr. Cronyn alone is of great importance.

For counsel for Mr. Smith to indicate that that conclusion is already drawn is, I say, out of place at this point.

Mr. Brownlie: Quite right. Quite right, Mr. Renwick, but my understanding of what Mr. Shibley said was that Mr. Smith's

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(Mr. Brownlie)

testimony confirmed that it was Cronyn he had in mind when he was talking to Manthorpe and that is not my understanding of the testimony Mr. Smith gave.

Mr. Chairman: Well, all right, Mr. Brownlie, we ~~I~~ I think ~~I~~ don't want your comments at this time. Mr. Rerwick is suggesting ~~that~~ ^{that} maybe a suitable time at the end. We are not drawing our conclusions at this point in time. I regret that we may be using the word "threat" and using it at times ~~inappropriately~~ ^{improperly}, but that word is the basis of our being here or one of the main reasons of our being here that there is an implied threat somewhere along the line.

~~Now, we agree~~



H-850 to follow

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M.S.

(Mr. Chairman)

~~one of the main reasons that we're having here, that there is an implied threat emanating from this line.~~ Now, we agree that we have not come to any conclusion at this point of time, whether there was or was not a threat. And if we use it, it is only because it has been suggested that there was such.

Now, Mr. Shibley, we'll return ~~now~~

the Mr. Walker: That is not an invalid objection, I think *in* Mr. Brownlie has submitted, Mr. Chairman, He is raising two points. One, that Mr. Smith's testimony is being -- at least what Mr. Smith said is not what Mr. Shibley related to the committee, *else* or that Mr. Shibley has drawn a conclusion from it that is unwarranted. I think his objection is valid.

Mr. Chairman: Well, all right. We've each perhaps drawn our own conclusion in regard to it, and we're all trying to keep an open mind on it. Maybe Mr. Shibley has come to an improper conclusion in his own mind, I don't know. Have you any comment on that, Mr. Shibley?

Mr. McCallum: That'll be his licence ~~to~~

Mr. Chairman: We will let the advocate be the judge.

at this Mr. Allan: Mr. Chairman, I think Mr. Shibley has ~~been~~ assisting this committee and I think he's done it very well and I think we should proceed.

Mr. Chairman: My only complaint is he has done it too thoroughly, Mr. Allan. Proceed, Mr. Shibley.

Mr. Gaunt: Well, Mr. Chairman, I think that's part of our job. And it may take all summer, but that's the commission which rests on us and I think that thoroughness is to be admired and I would very much resist any attempt to rush the committee along. I think that Mr. Shibley has his plan, and I think he should be allowed to proceed.

Mr. Chairman: I think you've got the green light, Mr. Shibley, from some of us, but at least from the chairman and enough to proceed, sir.

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Mr. Shibley: Well, Mr. Chairman, I'm not so sure I have a direction from this committee as a whole and I want that direction because my intention has always been to be thorough and complete. I was particularly impressed with the unanimity with which members of this committee said some days ago, that they felt that the issue upon which we were now considering evidence was the key to the ~~enquiry~~ enquiry - the very reason we were here. Frankly, I had thought there were other equally important questions, but it soon came home to me that this committee considered this part of the enquiry to be critical.

Now, I have been confronted repeatedly with variances in the evidence that I don't suggest are the result of intentional misstatement, but nevertheless I have been confronted repeatedly with changes of evidence on given points and have felt it necessary to go back, from time to time, to make the record as clear as possible, particularly in areas where you will be required, at the conclusion of this hearing, to make findings of fact. And one of the findings, I suggest, that will be put to you is what motivated ^{Cronyn} ~~Mr. Smith~~ to make his famous phone call to Mr. Smith. And at the moment, I see that there are two possibilities. If this committee is of the view that we are not on an important topic, then I will stop now and get on to things that are of, I am sure, interest to the committee. I, at the moment, would like to know does this committee consider it necessary that Mr. Barnacke be called as a witness? Frankly, the evidence to this point of time as to what person was being referenced by Mr. Smith, had all been directed to Mr. Cronyn, until the letter of July 14 was tabled. And if we've been put to a backward step, so to speak, it is because again that letter did not surface from either Mr. Smith or Mr. Cronyn on the occasion of their first testimony.

Now, I'd like to know what this committee has in mind in this area. I don't think it's good enough to tell me simply, "We know you're trying to do a thorough job, but ---"

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Mr. Walker: Well, Mr. Chairman, there is no question that this so-called threat is important. It now appears to have bounced off Cronyn and gone to Barnicke, as being the individual who may have ---

Mr. Deans: That is not it.

Mr. Chairman: I don't think that is necessarily so,
Mr. Walker, no.

Mr. Walker: Well, that's what the letter says, Mr. Chairman. All I'm really saying is, Mr. Shibley says, "should we call Mr. Barnicke" and I say, yes.

Mr. Renwick: No.

Mr. ^{R.}G. Hodgson: Mr. Chairman ---

Mr. Shibley: Quite frankly, I had considered that it was likely unnecessary to call Mr. Barnicke, for the simple reason that he can, in no sense, be identified from my enquiries ~~as~~

Tape H 851 follows

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PLGMr. Shibley

likely unnecessary to call Mr. Barnicke for the simple reason that he can in no sense be identified from ~~my~~ my inquiries as someone close to the Premier, someone close to the Cabinet or somebody high in the Progressive Conservative ~~Party~~ Party. Now if my inquiries are incorrect in that respect and any member of this committee thinks otherwise, I will call him, but I have investigated this individual in that respect and have concluded that he could in now sense fill the ^(e)description given to the person who made the call to Mr. Smith.

Mr. Walker: Well, that is the first I ~~have~~ have heard you say that.

Mr. R.G. Hodgson: Mr. Chairman, I would like Mr. Shibley to proceed. I am in full accord with what his action is. I would also like to see him proceed ^{with} asking questions regarding the rumours/~~because~~ because I think that is very pertinent/~~where~~ where he obtained the information that the Globe and Mail were investigating.

Mr. Chairman: Mr. Shibley.

Mr. Shibley: Now, Mr. Cronyn, you have already testified ~~that~~ that you initiated the phone call to Smith. He didn't call you. Is that correct?

Mr. Cronyn: That is correct.

Mr. Shibley: I take it, then, that you considered the communication to be one of importance by reason of whatever caused you to make it?

Mr. Cronyn: I think I explained why I called him.

Mr. Shibley: You said that you called him because you were a friend and director of his company. Is that correct?

Mr. Cronyn: Yes, Sir.

Mr. Shibley: And yet when you received the letter of July 14, 1972, outlining seriatim his complaints and suspicions, you didn't bother to respond to that letter?

Mr. Cronyn: That is correct.

Mr. Shibley: Your friendship and the fact you were a

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director of Ellis-Don did not influence you to respond in any manner or form to ~~that~~ communication?

Mr. Cronyn: That is correct.

Mr. Shibley: Notwithstanding the letter related to business of Ellis-Don Limited?

Mr. Cronyn: That is correct, but I had told him from my initial encounter that I could do nothing to help him.

Mr. Shibley: What I am driving at, Mr. Cronyn, ~~it~~ it appears that because of the letter of July 14 you didn't consider it necessary to respond to Mr. Smith, or to anyone in government. Is that correct?

Mr. Cronyn: That is correct.

Mr. Shibley: And yet ~~was~~ because of what evolved in November or December--let's take it one step at a time. / in November you considered it ~~was~~ sufficiently important that Ellis-Don had ~~a~~ certain complaints to communicate them to Mr. Fleck. Is that so?

Mr. Cronyn: Yes, I communicated them to Mr. Fleck. It was after the contract was let and signed.

Mr. Shibley: And whether it was in November or in December 1972 when you called Mr. Smith, for whatever reasons ~~was~~ ~~for~~ motivating you at that time, you considered it a matter of importance to discuss with him his ~~complaints~~ ^{complaints}.

Mr. Cronyn: No. I don't think that is in my evidence. I told you why I called him.

Mr. Shibley: I am sorry. You are right. You said you called him because you had heard the Globe was considering an investigation and wanted him to be prepared to ~~answer~~ answer the questions factually and without hearsay. I am paraphrasing. Is that correct?

Mr. Cronyn: Well, no, I'd rather not paraphrase. I'd rather have the exact statement.

Mr. Shibley: Fine.

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PLG

Mr. R.G. Hodgson: Mr. Chairman, perhaps I -- when I mentioned ~~chasing~~ ^{tracing} down where the rumour started, it is my understanding that the Globe and Mail wasn't investigating in the month of November and I wondered where the rumour came from.

Mr. Shibley: Thank you. I agree with you, Mr. Hodgson. I think it is Mr. Manthorpe's evidence that when he received Smith's call he said, in effect, ^{that is} ~~it~~ was a coincidence that he should be calling him because he had been thinking about it but hadn't done anything about it for a couple of weeks, as at that point in time. ~~That Mr. Cronyn,~~
~~I am sorry to come at you with two different~~

Tape H 852 follows

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V.H.

(Mr. Shibley)

~~as at that point of time.~~ Perhaps Mr. Cronyn -- I am sorry to come at you with two different topics at once but Mr. ~~Hodgson~~ Hodgson has asked me to persist in this area. How did rumour of the Globe's investigation reach you?

Mr. Cronyn: Well, as I think I said before, I haven't the faintest idea where I picked the rumour up. I see a lot of people in a day around here and where I picked it up I don't know.

Mr. Shibley: Did Mr. Manthorpe ever interview you?

Mr Cronyn: No, he did not.

Mr. Shibley: ~~Did~~ you ever produce any documents to any representative of the Globe and Mail?

Mr. Cronyn: No, I did not. I have been interviewed ~~in the~~ presentation of our various C.O.G.P. reports.

Mr Shibley: I am talking about referable to Hydro. Can you help us as to when you first heard the rumour in question?

Mr. Cronyn: No, I'm afraid I can't. I think I said end of November, early December, I am not sure. I can't pinpoint picking up the rumour. It was the combination of the rumour and the questions being tabled in the House that prompted ~~my~~ call.

Mr. Shibley: That's as much as you can say in that respect?

Mr. Cronyn: That's as much as I can say.

Mr. Shibley: I would like to go back to that July 14 letter, Mr. Cronyn. Did you know at the time you received it, ~~and by the way~~ did you receive it on the 15th in ~~the~~ ordinary course of the mail?

Mr. Cronyn: I wouldn't be sure. I was away that week. I wouldn't have received it until sometime the following week.

Mr. Shibley: Not until the following week? So you don't know whether you received it before or after July 19, 1972?

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V.H.

Mr. Cronyn: I would have to look at the calendar.
What was July 14? Is that a Friday?

Mr. Shibley: I can't help.

Mr. Renwick: It was a Friday, July 14, 1972.

Mr. Cronyn: Well, I would presume I got it the following Monday. I am only presuming. When I got to this letter in my mail, it could have been a ~~week~~ couple of days later because I had been away ^{for} ~~for~~ a week and I ^{got} ~~had~~ rather a large amount of mail in one week. So whether I read this on Monday or Tuesday, I just couldn't begin to tell you.

Mr. Shibley: Mr. Cronyn, on ~~the~~ July 19 the Hydro Commission approved entering into the contract with Canada Square. Did you know anything of the letting of that contract at or about the time you received this letter from Mr. Smith?

Mr. Cronyn: No, I did not, sir.

Mr. Shibley: Did you know that a commission meeting was pending on July 19 to consider the matter?

Mr. Cronyn: No, I did not.

Mr. Shibley: I don't know that I ever got an answer, Mr. Cronyn, and I would like it clearly a matter of record as to why, when you got the letter of July 14, 1972, you took no action but in November you considered it important to tell Mr. Fleck about Mr. Smith's complaints and, either in November or December, you considered it important to call Mr. Smith about a pending interview or one which might happen with the Globe and Mail.

Mr. Cronyn: Could we have one question at a time?

Mr. Shibley: Yes. I want to know why you didn't consider it sufficiently important to respond to the letter of July 14, whereas in November you considered the self-same complaints to be sufficiently important to take them up with Mr. Fleck?

Mr. Cronyn: I guess there ^{are} ~~is~~ two answers to that. One which I gave you before, that the contract had been let and ~~no~~ ^{any}one could possibly accuse me of doing anything to

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assist Mr. Smith in bringing up the question; and the second part I think I gave in my ~~arg~~ original evidence. It was ^{as} part of a larger discussion about Hydro with Mr. Fleck that this subject came up.

Mr. Shibley: All right. Again, ~~comparing~~ ^{comparing} your ~~action~~ ^{your} action or inaction, why did you take no step in response to the letter of July 14, 1972, but in November or December of the same year, call Mr. Smith in terms of what you have ~~at~~ described as your famous phone call?

Mr. Cronyn: Well, I really don't see the relation between the two. I told you why I called Mr Fleck in December. Excuse me, not Mr. Fleck, Mr. Smith in December. ~~I went into as much detail as I could remember and I don't~~

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11.30 - 11.35 a.m.
M.R.

(Mr. Cronyn)

~~Mr. Fleck, excuse me, Mr. Smith in December.~~ I have gone into that ~~as~~ in as much detail as I can remember and I don't see the connection between that and the letter on July 14th.

Mr. Shibley: Well, the letter sets out Mr. Smith's complaints, does it not?

Mr. Cronyn: Yes. It lists some complaints.

Mr. Shibley: And you expected that, if the Globe interviewed him, he would be ~~as~~ discussing perhaps those same complaints?

Mr. Cronyn: The same complaints that had been discussed on several occasions.

Mr. Shibley: Yes. And so when you asked me what the connection was, Mr. Cronyn, the connection is that the letter contained complaints about which you took no action but in November or December you placed a call to him when an interview by ^aGlobe and Mail reporter was ^mimminent?

Mr. Cronyn: The reason I called him was because the questions were coming up in the House and I'd also heard the rumour that the ⁶Globe and Mail were investigating.

Therefore, I was simply alerting him to the fact that he was liable to get a phone call. That was not the situation on July 14th.

Mr. Shibley: What part of your responsibilities in November and December of 1972 would cause you to take the matter up with Mr. Fleck?

Mr. Cronyn: Because Task Force Hydro was still in operation, which was reporting through me.

Mr. Shibley: And you considered, therefore, that Mr. Smith's complaints should be, in turn, communicated to Mr. Fleck?

Mr. Cronyn: Well, as I said, it was in a broader discussion of Hydro and Task Force Hydro's activities that this particular point came up.

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M.R.

Mr. Shibley: Well, why, then, didn't that same circumstance motivate you to do something about it when Smith was telling you in February of 1972 and July 14th of 1972 of the fact that he considered that the job was a set-up?

Mr. Cronyn: Because, Mr. Shibley, I have told — I told Mr. Smith and I have told this group here a number of times, I was doing a government job and therefore was in no position to help Mr. Smith at all.

I told ~~him~~ ^{him} that at the beginning and he accepted it.

Mr. Shibley: But you mentioned that you had some responsibilities referable to Task Force Hydro and what ~~is~~ I'd like to know is why you could sit there throughout the period February, 1972, until November of 1972 and say nothing to any one respecting the Ellis-Don complaints?

Mr. Cronyn: Well, that was just my — I guess, governing of my ethics, I suppose, that I was a director of Ellis-Don ^{and} I couldn't possibly get involved in anything to do between Ellis-Don and the government.

Mr. Chairman: Mr. Deans.

Mr. Deans: Is it not true that the Task Force Hydro were looking at the suitability or the propriety of locating the Hydro building in ~~the~~ what is ~~the~~ called ~~the~~ the Queen's Park complex?

Mr. Cronyn: As I said, I think, in my evidence before, it was in ~~an~~ ^{an} informal discussion ~~between~~ ^{between} Task Force Hydro and the Committee on Government Productivity, but that neither group

Mr. Deans: You are on both, though?

Mr. Cronyn: I was ^{on} both.

Mr. Deans: You are on both of them?

Mr. Cronyn: Well, I wasn't on both, no, I was the chairman of the Committee on Government Productivity and Task Force Hydro was a satellite, if you like, which reported to our committee. We were not involved in any of the day-to-day work that they were doing or their programmes.

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M.R.

Mr. Deans: Well, I may be pre-empting - were you going to ~~pursue~~ pursue it?

Mr. Shibley: No, go ahead.

Mr. Deans: I can't understand why, if you were informed that there was something wrong with the way in which Hydro was pursuing the development of its new building, and you were also investigating the correctness of the decision to locate a building in that area ~~any~~

Mr. Cronyn: No, we weren't ~~expecting~~ ^{In} ~~the~~ previous evidence. I did not say that we were investigating the proper location. I just simply said it had come up in discussion and it was a subject which the government itself was studying.

Mr. Deans: Is it not so that the CGOP ~~→~~

Mr. Cronyn: COGP?

Mr. Deans: COGP. Yes, I was trying to get the right ~~any~~

Mr. Cronyn: That's right. My wife does it that way.

Mr. Deans: That's okay. Is it not so that they, in fact, did discuss the possibility of Hydro diversifying its operations within the province, among other things?

Mr. Cronyn: No, they discussed the whole overall picture of government.

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11.35 to 11.40 am
fvkMr. Cronyn:

No, they discussed the whole overall picture of government, including centralizing, dispersal, regionalization as applied to the whole government and all its agencies, ~~the~~ boards and commissions.

Mr. Deans: That included Hydro?

Mr. Cronyn: It included Hydro but we got into no ~~study~~ ^{detailed} studies on it at all, other than to suggest that this was an area that ~~we~~ should be explored ~~and~~, in fact, in our last report, number 10, we refer to that and, in fact, the government was taking a look at that particular subject in the broadest area. They had not got down to any individual studies on whether the Hydro building was one that could be dispersed out of Toronto.

Mr. Chairman: I think it might be reasonable to take a 10-minute recess. ~~We~~

The committee took recess at 11:40 a.m.

(Tape H 855 follows)

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M.S.

The committee resumed at 11:50 a.m.

Mr. Chairman: I call the meeting back to order.

I would request the members to take their seats.

Mr. Cronyn: Mr. Chairman.

Mr. Chairman: Mr. Shibley?

Mr. Shibley: Mr. Cronyn ←

Mr. Cronyn: Mr. Chairman, I wonder if I could attempt to help Mr. Shibley in his questions that he was asking just before ~~we~~ we left?

Mr. Chairman: Yes, you know what he is trying to get at, maybe you can be of assistance directly.

Mr. Cronyn: Well, I think ^{Rose} ~~I~~ grasped his misunderstanding or his lack of comprehension of what I've been trying to say. After the contract was let, to bring up anything about Ellis-Don seemed perfectly in order for me. No one could possibly say that I was trying to get the job for Ellis-Don. The contract ~~that~~ was let, ~~that~~ job was over and dead. My discussions with Fleck in November were, as I said before, in the ~~broader~~ broader context of ^{the} Task Force Hydro study; in the broader context of the overall government study of dispersal, decentralization and regionalization. And my purpose for raising the question about Ellis-Don was on this basis; That if what Mr. Smith had told me, it would appear that the taking of proposals by Hydro had not been handled in a very thorough manner. Now, in one of our reports, COGP report number 8, we had suggested that one of the methods for government to get office space was to do it through proposals from developers, for a variety of advantages ~~that~~ we saw to this approach in particular circumstances.

My purpose for raising the thing ~~Mr.~~ ^{Wife} ~~Mr.~~ Fleck was that ~~we~~ ^{we} make sure that if the government

Tape H 856 follows

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11:55-12:00 noon
V.H.

(Mr. Cronyn)

my purpose for raising the thing to Mr. Fleck was that we make sure that if the government, not just Hydro, the government or anybody else, is taking the developers' proposal route that the method of doing this and the method of taking proposals was done in a very thorough, careful manner. Because if you don't, you run the risk of just what we are in to now.

Mr. Chairman: Thank you, Mr. Cronyn.

Mr. Shibley: Just so that the committee has that complete and without having to ask the witness again what he said before, in Hansard page 680 page 1, June 21, 1973.

Mr. McCallum: Would you just repeat that please?

Mr. Shibley: Hansard tape 680, page 1, evidence of June 21, 1973. Two-thirds down the page:

"Mr. Cronyn: My purpose was simply to point out to Mr. Fleck that from the vantage point that I had, it looked as though Hydro had done rather a ~~sloppy~~ job of taking tenders for this particular building.

"Mr. Shibley: Did you give him particulars as to why you considered it a sloppy job?

"Mr. Cronyn: Just simply the same ones that I have given you.

"Mr. Shibley: In other words, you related to him the premises of complaint that Smith had in turn given to you? Is that correct?

"Mr. Cronyn: Yes, without the hearsay.

"Mr. Shibley: Yes. You told Fleck that Ellis-Don had been given a very limited time to prepare a tender?

"Mr. Cronyn: Yes.

"Mr. Shibley: You told Fleck that Ellis-Don had been told not to submit drawings?

"Mr. Cronyn: I don't know whether I touched on that.

"Mr. Shibley: You told Fleck that Ellis-Don had no opportunity to follow-up with Hydro? Is that correct?

(Mr. Shibley quoting)

"Mr. Cronyn: That is correct.

"Mr. Shibley: And all the items of complaint that Mr. Smith registered with you, you passed them on to him? Is that correct?

"Mr. Cronyn: I am not sure I passed all of them on. I just passed the salient items."

Mr. Cronyn: Please read on, Mr. Shibley.

Mr. Shibley: Surely.

"Mr. Shibley: And in communicating all of this to Mr. Fleck, did you in turn intend that the information be communicated to Cabinet through him?

"Mr. Cronyn: Not at all.

"Mr. Shibley: What was your purpose?

"Mr. Cronyn: You must remember Jim Fleck was the executive director of the Committee on Government Productivity and was involved when we set up Task Force so he had an interest in that whole area. I was simply communicating it to him in a broader discussion of Hydro, a broader discussion of the office building.

"Mr. Shibley: So as to put it into context, your communication with Mr. Fleck was predicated upon your involvement with Hydro as opposed to his responsibilities, vis-a-vis the Cabinet?

"Mr. Cronyn: Yes, sir.

"Mr. Shibley: Other than Mr. Fleck, did you take this matter up with anyone else connected with government?

"Mr. Cronyn: No, sir."

You want me to read further?

Mr. Cronyn: No, that is fine, sir.

Mr. Shibley: All right. I gather in terms of your last statement of evidence, then, that you were, you felt yourself under some restraint, by ~~various~~ reason of the position you occupy, not to relay the complaints that had been registered with you by Mr. Smith both in February and again in July by the letter of July 14?

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V.H.

Mr. Cronyn: Yes. I think I have said that numerous times, sir.

Mr. Shibley: That's your explanation and that was ~~the~~ only reason you didn't take it up with anybody else?

Mr. Cronyn: Yes, sir.

Mr. Shibley: You didn't fail to follow up because you considered the question of who was going to get the contract foreclosed?

Mr. Cronyn: No, sir. Could I have that again? Please.

Mr. Shibley: You didn't fail to take up the letter of July 14, 1972, with anyone because you considered the matter of who was to have the contract already determined?

Mr. Cronyn: No, sir.

~~MM~~ Mr. Shibley: Now you said in your opening statement today, I made a note of it, that when you ^{gave} your first testimony, you did not remember the content of the letter of July 14. ~~Dis-remembered~~

H-856-3

(Mr. Shibley)

~~you did not remember the content of the letter of July 14.~~
Did you remember the letter itself when ~~you~~^{you} were first testifying?

Mr. Cronyn: No, I said—I'm not sure ~~whether~~^{to where} you are referring ~~to~~ⁱⁿ my opening statement.

Mr. Shibley: You said, at one point, that ~~we~~ you were given short notice, ~~now~~^{written} material, that when you got down to detailed questions, the content of the ~~xxx~~ letter did not come to mind.

Mr. Cronyn: No, I just said the letter simply did not come to mind. I did not say ~~the content~~^{would}.

Mr. Shibley: ~~Did~~^{would} you read that — I may be wrong on that but I made a special note of it.

Mr. Cronyn: No, I think — if I may read it to you I think it will show you where you may be.

Mr. Shibley: Yes, ~~xx~~ surely.

Mr. Cronyn: "When detailed questions for which I had had no time to prepare were presented to me, the letter simply did not come to mind. The content~~s~~ of the letter makes it clear that there would be no reason for me to conceal the letter and I would not do so in any event."

Mr. Shibley: Thank you, Mr. Cronyn. ~~I misjudged~~^{was Read} you then. Did the letter not come to mind at all, then, when you were first giving evidence?

Mr. Cronyn: It did not, sir.

Mr. Shibley: Fine. Had you, prior to this hearing, had conversations with Mr. Smith respecting the evidence that he would give and you would give at this hearing?

Mr. Cronyn: No, I did not, sir.

Mr. Shibley: Did you not ~~to~~ →

Mr. Cronyn: If you remember, I didn't see him or talk to him after he was called.

Mr. Shibley: I might refresh your memory that Mr. Smith gave testimony that it was following discussion with you, that you reminded him that your call to him was made in December. Remember?
I read that earlier.

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12.00 to 12.05 pm
fvk

Mr. Cronyn: That's correct.

Mr. Shibley: So that, do I take it, at least, to that extent there was a discussion between you as to your testimony?

Mr. Cronyn: No, sir. Not to ~~the~~ ^{the} testimony. This was prior to him being called or me being called when we were dealing with the article of April 30 which I referred to in my testimony.

Mr. Shibley: I understood that you had a meeting at the cottage in June of this year?

Mr. Cronyn: I wouldn't call it a meeting.

Mr. Shibley: He dropped in on you. Is that right?

Mr. Cronyn: Yes, sir.

Mr. Shibley: And it was at that meeting that the question of the time of your call was discussed between you?

Mr. Cronyn: That's right.

Mr. Shibley: And by that time this hearing was already underway?

Mr. Cronyn: Yes, it was, sir.

Mr. Shibley: And it was at that time that you put it to Smith that your call was made to him in December?

Mr. Cronyn: Yes, I think that was in the article, that he was quoted as having said "I was on your case as to the Smith case."

Mr. Shibley: Yes.

Mr. Cronyn: And then when Smith identified to me that I was the one who he was referring to -- first he identified that he was the one who had ~~made some statement~~ ^{made some statement} or given an interview. He then identified that it was me that he was referring to. The point came up at that time that it wasn't any three or four weeks ago I phoned him, it was back in December.

Mr. Shibley: I would hope that that last answer puts to rest once and for all who it was to whom Mr. Smith was referring in terms of whatever he had to say to the Globe reporter.

Mr. R.G. Hodgson: Especially the --

Mr. Shibley: Pardon?

Mr. R.G. Hodgson: Especially the solicitor --

Mr. Shibley: Would you say that louder, please?

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Mr. R.G. Hodgson: Especially the solicitor for Ellis-Don.

Mr. Shibley: Thank you, Mr. Hodgson.

Mr. Brownlie: I don't think it does.


Mr. Shibley: All right. There has also ~~been~~ been a reference to the circumstance that you discussed the threat that was implicit in the article at the time of his meeting with you. That was Mr. Smith's evidence, I might say. Did you know that?

~~Mr. Cronyn: (No answer).~~

~~Mr. Shibley~~: I'll give ~~you~~ you the evidence, Mr. Cronyn.
It starts at page ^{658/}~~52~~-3, June 21. ~~Mr. Smith~~

~~Mr. Smith~~: About one-third of the way ~~down~~ down. ~~He~~
~~met him up at the cottage and just walked over.....~~

(Tape H 858 follows)



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(Mr. Shibley)

~~a third of the way down:~~

"I met him up at the cottage and just ~~was~~ walked over to his house."

Mr. ~~Mr.~~ Smith later says:

"It was a Sunday, Mr. Shibley, I am not sure, June 3 or something like that, June 3 or June 4 or something in there."

~~And~~ then on the next page, if we can jump to 659 page 1:

"Mr. Smith: I asked him when he had called me and I said I thought it was in January and he said no, it was in December. I said I talked to the Globe at our office and I told them that I didn't want my name mentioned and I didn't want a political hassle on the thing."

And then at page 659-3, about a third of the way down:

"Mr. Shibley: Now I want to take ~~you~~ you to that conversation with Mr. Cronyn at the cottage. Did you specifically discuss the matter of a threat?

"Mr. Smith: Yes.

"Mr. Shibley: Did you discuss ~~the~~

"Mr. Smith: I discussed the matter that was in the paper. ~~There~~

"Mr. Shibley: Yes.

"Mr. Smith: Right.

"Mr. Shibley: The only portion of the article that you have disagreed with is the quotation that someone high in the party had threatened you to keep your mouth shut.

"Mr. Smith: That's right.

"Mr. Shibley: And, of course, at the time of your consultation or discussion with Mr. Cronyn, that would therefore be salient to that discussion would it not?

"Mr. Smith: That's right."

And then, further on at page 660, at the bottom of page 1:

"Mr. Smith: I went to Mr. Cronyn and I told him about the article. I mentioned the article in the Globe and I said, 'I want you to know that I didn't say that,' and

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(Mr. Shibley)

there were witnesses present and they can prove I didn't say it. I said I didn't say that to him and , as a matter of fact, I told him I didn't want him to mention my name as I have to work with governments and it won't do me any good if my name gets out. That's what I told the Globe.

"Mr. Shibley: You said that to him?

"Mr. Smith: Yes, I told him exactly what I told McAuliffe.

"Mr. Shibley: Yes, and what, if any, contribution did Mr. Cronyn make to the conversation?

"Mr. Smith: Well, I think he said it may not be brought out and nothing more really."

And then further down on the page:

"Mr. Smith: I told him that as I recalled it, he had called me and I thought he had called from Toronto and he mentioned that he had called from home; I couldn't recall. I mentioned that he had called me and told me that the matter was likely to be brought up in the House and I might be getting a phone call from the Globe and Mail. He never mentioned government contracts. He has never mentioned government contracts to me.

"Mr. R. G. Hodgson: Was he concerned about the welfare of the company?

"Mr. Smith: No, I don't think that came up. It did not come up."

So does that cover your conversation with Smith at the time of the cottage?

Mr. Cronyn: Reasonably well to my memory.

Mr. Shibley: Yes. And so to that extent you did discuss certain elements of the evidence that he and you were to be questioned upon before this hearing.

Mr. Cronyn: Well, we didn't know that we were going to be questioned on it, at that time.

Mr. Shibley: On June 3 and June 4?

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Mr. Cronyn: No, Sir.

Mr. Shibley: Did you say anything to Smith that you hoped that your name would not be mentioned?

Mr. Cronyn: I don't think I put it that way. I think that I was indignant that any thought would be put forward such as was in the newspaper article that I had in any way threatened him, and he made it perfectly clear that he had not said that to the press.

Mr. Shibley: Now you had a further discussion with Mr. Smith after he was interviewed by me. Is that correct?

Mr. Cronyn: Not after he was interviewed by you.

Mr. Shibley: Well then, the evidence again Hansard at 690 page 2, June 21, three-quarters of the way down the page.

Mr. Cronyn: 692?

Mr. Shibley: 690, page 2, towards the bottom.

"Mr. Cronyn: No I think I have seen ~~Don~~"

I had asked you; "That was the last occasion on which you discussed this matter?"

"Mr. Cronyn: No, I think I have seen Don since and he asked me if I knew when I was going to be called. He told me that he had a meeting with yourself a week ago Monday, I believe. I said: Let me know if and when you are going to be called."

Mr. Cronyn: Well, that is the paragraph, remember, I tried to correct the other day. What I said, or meant to say was, "No, I think I have seen Don Smith since" and I asked ~~him if he knew when he was going to be x~~

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(Mr. Cronyn)

~~or meant to say, was, no, I think I've seen Don Smith since. And~~
I asked him if he knew when he was going to be called. And he told me that he was going to have a meeting with you - I got into the past tense there - but when I was talking to him it was a meeting still to come.

Mr. Shibley: How can you suggest that, Mr. Cronyn, when the balance of the statement says not only that he had a meeting with yourself, but it goes on to say "a week ago Monday"?

Mr. Cronyn: Well, this was in the sense of when I was sitting here giving this testimony. The only discussion I had was when Mr. Smith was telling me that he was going to have an interview with you on - it would be a Monday in the future.

Mr. Shibley: In any event, did Mr. Smith, following my interview of him, call you and tell you that I had required him to disclose your identity to me?

Mr. Cronyn: No, he did not, sir.

Mr. Shibley: He never bothered to call you?

Mr. Cronyn: No, sir.

Mr. Shibley: Now, perhaps through you, Mr. Cronyn, we can deal with this letter of July 14 once and for all. Would Mr. Barnicke be a person who could be characterized as high in the Progressive Conservative Party, or close to cabinet?

Mr. Cronyn: Well, I don't think I am qualified to answer that.

Mr. Shibley: Well, you've been working with government for some time. I would think you might know that. If you don't know, just say it and I will accept your answer.

Mr. Cronyn: I was not working with the party side, so I don't know how high Mr. Barnicke was on the party side.

Mr. Shibley: I see. Well, was he close to the cabinet?

Mr. Cronyn: Well, what does close to the cabinet mean?

Mr. Shibley: You are not prepared to assist us in that respect?

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Mr. Cronyn: I am very happy to assist you, but I don't think I'm qualified to say how high he was in the party, and I really don't know what close to the cabinet means? Did he know a couple of cabinet ministers?

Mr. Shibley: Well, were you close to the cabinet?

Mr. Cronyn: Well, certainly, you could say I was close to the cabinet because I knew most of the cabinet ministers, if that is the sense of the word. I really don't know what you mean by close to the cabinet. I ^{had} ~~have~~ no influence on the cabinet. I ^{had} ~~have~~ nothing to do with their day-to-day operation.

Mr. Renwick: Well, we spent a lot of time in the House dealing with Mr. Cronyn's report.

Mr. Shibley: I had hoped you might eliminate the need for us to bother calling Mr. Barnicke, but you don't appear to be able to do so. I have no further questions, Mr. Chairman.

Mr. Chairman: Any other members of the committee ^{have} ~~any~~ ~~other~~ further questions of Mr. Cronyn? Mr. Walker?

Mr. Walker: Mr. Chairman, I do have a few questions. As you know, I wasn't here Thursday, but I had a chance to review the transcript and I've ~~just~~ ^{just} jotted down a few questions, ~~some~~ ^{some} of which may be answered this morning and I'll try and avoid them as much as possible. But perhaps, Mr. Cronyn, can you tell us about this July 14 letter? Do you remember actually receiving it?

Mr. Cronyn: ~~No~~ ^{No}, I can't say that I actually remember receiving it. I mean, if you'd said ^{when} ~~when~~ did you receive the letter, I wouldn't have been able to pick out the time. Because, as I said, I did nothing about it and I threw it out.

Mr. Walker: Do you know if it came to your office/^{or} to your home?

Mr. Cronyn: Well, where is ^{it addressed} ~~the address to?~~

Mr. Walker: It's addressed to the office, but I didn't necessarily know whether Mrs. Shuttleworth, being such a brilliant secretary, ~~she~~ might have known that you were going to be home that weekend, or something or other.

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Mr. Cronyn: No, it would have come to my office and it would have been in my mail that my secretary would have put together for me to read as I was travelling about.

Mr. Walker: All right. What is the -- what happens to correspondence received at your office ^{that is} ~~at~~ Labatt's? What happens to what might be referred to as ~~Labatt~~ ^{Labatt} mail?

Mr. Cronyn: Well, I don't want to go into the different piles I have on my desk.

Mr. Shibley: Did you say mail or ale?

Mr. Cronyn: Anything that's personal and confidential, my secretary does not open, and puts on my number one pile, as I call it, ^{which} ~~what~~ is stuff I address myself to immediately. I have number two pile and number three pile. I start with number one, two and number three. It would be in the number one pile because it was personal and confidential -- in the envelope.

Mr. Walker: ~~What then would you do with it? First of~~

~~all~~ ...

Tape H 860 follows

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E.M.

H-860=1

~~(Mr. Walker)~~

~~All right. And then~~

~~_____~~
Mr. Walker: What then would you do with it? First

of all, mail that is addresssed to you in respect of matters other than Labatts, do you take them home, do you have a file for them? Do you ~~_____~~ keep them at the office?

MR. Cronyn: I have files at the office and I have files at home, depending on the various companies. I have an Ellis-Don ~~■~~ file that I keep at the office.

Mr. Walker: Do you recall actually reading this letter?

Mr. Cronyn: Well, I don't know how to answer that one. I ~~■~~ must have read the letter and seeing it again I recall it, so I guess you could say I recall reading the letter.

Mr. Walker: With respect to the name Barnicke, when you received the letter, I presume that the name probably registered in your mind to some extent, had you heard of him at that time?

Mr. Cronyn: Who, Joe Barnicke?

Mr. Walker: Yes.

Mr. Cronyn: You must remember that at one time ~~■~~ years and years ago in the past when I was busy in the beer business only, Joe Barnicke was the manager of O'Keefe's. Of course I knew him, general sales manager, I have known him for years.

Mr. Walker: So ~~===~~

Mr. Shibley: Maybe that is being "high at the party."

Mr. Walker: There was a reference, of course, in the last paragraph of the letter, ~~It was that Smith~~ ~~_____~~ wrote to you, ~~It~~ was a reference to having talked to Barnicke,

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E.M.

H-860-2

(Mr. Walker)

It has been ~~stated~~ ^{stated} as sort of a so-called threat. Did you pay any attention at the time to this so-called threat?

Mr. Cronyn: Well, to me ~~it was~~ ^{not} even a so-called threat. I paid no attention to it at all. It was just somebody's advice.

Mr. Walker: Did it register on you at the time?

Mr. Cronyn: Not really.

Mr. Walker: Do you think that - you have indicated that you wouldn't treat the words as a threat but rather that you considered it advice - what do you think might have been Smith's interpretation of it in view of the fact that he brought that out in his letter to you?

Mr. Cronyn: At this point in time I wouldn't begin to interpret anything. Mr. Smith might think.

Mr. Walker: I take it from your answers to Mr. Sibley that you don't really know the pecking order of Mr. Barnicke in matters as they relate to the cabinet or to the Conservative Party ---

Mr. Cronyn: I would have thought the Conservative members sitting on the committee would be much better qualified than me.

Mr. Walker: Some of us haven't heard of him either.

Mr. Cronyn: Mr. Deans says he knows too.

Mr. Deans: No, I ~~don't~~ ^{don't}

Mr. Walker: We are going to call Mr. Deans in a moment. And you did nothing really in respect to the letter?

Mr. Cronyn: I did nothing at all, sir.

Mr. Walker: All right. Why not?

Mr. Cronyn: Well, I think I've gone into that a

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E.M.

H-860-3

)Mr. Cronyn)

number of times before. I read the letter, I had said that there is nothing I can do to help Mr. Smith. I made that clear all along. This letter came in, ^{It} ~~was~~ was just a summary, if you like, of some of his feelings about the way he was being treated; there was nothing new in it; he didn't ask me to do anything; I did nothing. The letter meant nothing to me.

Mr. Walker: Is it fair to say that you basically treated it as insignificant? Is that a fair comment?

Mr. Cronyn: I would say that is a fair comment.

Mr. Walker: Looking back at it today, ~~was~~ with today's perspective, would you consider it as insignificant?

Mr. Cronyn: No, I would not.

Mr. Walker: Now, I just want to turn to the question of ~~this~~ this two-sided quote that appears to have been in the Globe and Mail on the 30th of April. At some point you became aware ~~that~~ at least in part that quote was attributable to you. Was this at the June 3rd meeting with Smith?

Mr. Cronyn: Yes, I think that's what I said in my testimony.

Mr. Walker: All right. You knew you were the person referred to in the first part of the quote and you knew ~~you were~~ at least you claim that you were not the person referred to in the second part of the quote?

(Tape H-861 follows)

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M.R.

~~(Mr. Walker)~~

~~and you knew you were making a statement that you
were not the person referred to in the second phrase of the
quote~~

Mr. Cronyn: Well, I knew I had made no threats.

Mr. Walker: Did it ever occur to you at the time that this second phrase, the famous 16 words, could ever be attributable to some other person?

Mr. Cronyn: No, it really didn't.

Mr. Walker: You didn't think at the time that it could be attributable to, say, Barnicke from the preceding letter?

Mr. Cronyn: No, sir.

Mr. Walker: Well, is it fair to say then that ~~your only~~ your only thought was to deny the allegation, rather than who actually made that allegation? Is that a fair comment?

Mr. Cronyn: I'm not sure I get the question too clearly. I was certainly prepared to say that I had phoned Mr. Smith and what I had told him.

Mr. Walker: Well, you were giving no thought at all as to who may have been the author of the ~~quote~~

Mr. Cronyn: No, I was not.

Mr. Walker: ~~...the~~ latter half of the quote?

Mr. Cronyn: No, I was not.

Mr. Walker: The quote was meshed together, of course, in one.

Mr. Cronyn: Mr. Smith was assuring me at that time that he had not made any quote like that to the press. I took his assurance at face value, ~~and~~ why not, and assumed that he didn't know where the quote was coming from.

Mr. Walker: Mr. Cronyn, when you first appeared before the committee, you understood the committee to be directing itself to the question whether or not you said anything to Mr. Smith which may have been construed to be a threat of losing future contracts.

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M.R.

(Mr. Walker)

Is that correct?

Mr. Cronyn: No, I'd like to have that again

please.

Mr. Walker: You were only really considering

the question of whether you had said anything to Mr. Smith which may have been construed by Smith to be a threat as towards future contracts. That was your only interest in denying that. That was your purpose. That's what you thought the committee was talking about. Is that right?

Mr. Cronyn: That was the point I thought I was being called about.

Mr. Walker: On what day was it, the 17th of June, was it?

Mr. Cronyn: On the night of the 20th, then.

Mr. Walker: It would be the 21st of June then?

Mr. ~~Walker~~ Eberle: I think there is a confusion in the calling. I think what he is saying is that he received a telephone call on the 20th to come and give evidence on the 21st.

Mr. Walker: Right.

Mr. Eberle: It's a question whether you are talking about the call being a telephone call to him ^{being} or coming here and giving evidence as ~~the~~ the call.

Mr. Walker: Right. I appreciate that. Now, in reading the transcript of last week, it appears that you didn't receive proper notice to appear before the committee?

Mr. Cronyn: That is correct.

Mr. Walker: You received notification to come the next day from - was it the clerk or Mr. Bell or Mr. Shibley?

Mr. Cronyn: Mr. Bell and Shibley, I believe.

Mr. Walker: And you were in Toronto at the time?

Mr. Cronyn: Yes, I was.

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Mr. Walker: And your office, of course, is in London?

Mr. Cronyn: Yes, sir.

Mr. Walker: All right, ~~now~~ ^{was} it indicated at the time the reason why you would actually be here?

Mr. Cronyn: Yes.

Mr. Walker: And what was the actual reason given for your attendance?

Mr. Cronyn: Well, in connection with the fact that Mr. Smith had identified me as the caller in the article of April 30th.

Mr. Walker: So you were coming in respect of ~~the~~ ^{the quote} "having been identified as the author of that quote"?

Mr. Cronyn: Yes, sir.

Mr. Walker: That was the only purpose for being here at the time?

Mr. Cronyn: That was the only purpose that I perceived from the brief discussion on the telephone that I had with Mr. Bell and Mr. Shibley.

Mr. Walker: Well, then, other than coming here to deny that allegation on that day, June 21st, there was nothing else paramount in your mind at the time ~~you~~?

Mr. Cronyn: There was not.

Mr. Walker: ~~Is~~ from a consideration point of view? Now, Mr. Cronyn, in my reading of Thursday's transcript, it appeared to me that some people around the table thought or inferred that there might have been a suppression of evidence ~~or~~ ^{a withholding of material evidence}. That was the feeling that I got in reading the transcript.

Mr. Renwick: Mr. Chairman, I don't think there was anything from around the table that had to do with the suppression of evidence.

Mr. Walker: Well, this ~~was~~ ^{is} my feeling, Mr. Chairman, in reading the transcript, ~~and~~ I think if the members beside me ^{he} read it they will detect that feeling.

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M.R.

Mr. Deans: We were here.

Mr. Renwick: We were here.

Mr. Walker: I appreciate that but, nevertheless ,
I think you will come to that feeling if you have a chance
to see the actual words, even though you heard *them*'

Mr. Renwick: I've seen the actual words and I
was also here and there was no indication by anyone around the
table, unless you care to name who the person was, of any such
suggestion at that meeting.

Mr. Walker: Well, in any case, Mr. Chairman, if
we even disregard that aspect ~~of it, it is a matter of fact~~

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V.H.

(Mr. Walker)

~~in any case, Mr. Chairman, if we ever disagreed that aspect~~
of it, nevertheless ~~there~~ there appears to be that question, in my mind at least.

Mr. Chairman: Well, it may be in your mind and I think you had better rest at that. I ~~am not~~ ^{am not} saying you can't follow up the question, Mr. Walker, but Mr. Renwick is denying that as far as he is concerned ~~and~~.

Mr. Walker: I am not accusing Mr. Renwick, Mr. Chairman. I would never accuse him of anything.

Mr. Renwick: That was the point of my reply. ~~I know you are not~~ ^{me of anything} ~~accusing~~ I just wanted to keep the record ~~perfectly~~ perfectly clear that there was nothing said at the meeting that I understand, ~~either~~ either from my point of view or by any other member of the committee at the meeting last Thursday, that could in any way have the inference ~~x~~ that you have drawn from reading the transcript.

Mr. Walker: Well, my inference, Mr. Chairman, probably came from the line of questioning offered by counsel which at times suggested that counsel was aghast that Mr. Cronyn would not have remembered ~~that~~ ^{this} particular letter. Now, perhaps I have interpreted the line of questioning improperly but, however, that is what was in my mind. Allow me at least, to clear my own mind if not possibly some of the others.

Mr. Chairman: Proceed.

~~XXXXXXXXXX~~

Mr. Walker: Now in your opening remarks you indicated that the content of the letter was clearly ~~or~~, at least, ~~was~~ if you had produced the letter ~~of~~ July 14, it would have been ~~of~~ ^{of} ~~Re~~ to you. Now, are you saying that because, in fact, it names or suggests that Barnicke might be the author of the so-called threat portion of the quote?

Mr. Cronyn: No. I think it provides a basis on which Mr. Smith might have ~~made~~ made a comment to the press as testified to ~~by~~ by Mrs. Shuttleworth.

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Mr. Walker: I am not sure that I really gathered ^(rephrase) that. Would you either repeat it or ~~misinterpret~~ it a bit?

Mr. Cronyn: Well, I think that the section you are referring to ~~w~~ could be a basis for a comment such as ~~it~~ is attributable to Mr. Smith through the evidence of his secretary, Mrs. Shuttleworth.

Mr. Walker: You mean it substantiates your position?

Mr. Cronyn: Well, it certainly -- I think it corroborates my ~~point~~

Mr. Walker: Corroborates, if I can use ^{that} maybe that is a better word!

Mr. Cronyn: I have a hard time pronouncing it.

Mr. Walker: You have a hard time - what?

Mr. Cronyn: Pronouncing corroborate.

Mr. Walker: Basically, then, it would have been to your advantage to bring out this letter?

Mr. Cronyn: In the context of today, yes.

Mr. Walker: I have no further questions.

Mr. Chairman: ^{Now} Anyone ~~else~~ ~~any~~ ~~other~~ questions?

Mr. R.G. Hodgson: Mr. Chairman, I would like to ask a couple.

Mr. Shibley: Mr. ~~R~~ Hodgson, if you would defer, because of the way ~~in which~~ ^{line of} that ~~type~~ questioning was conducted, and because it is directed to the matter of notification, and I guess ^{the} ~~committee~~ members took some inference from what I said, I would like to ask the witness some questions, Mr. Chairman.

Mr. Walker: I am sorry I can't hear you. As Mr. ~~Sissons~~ says, it is this ~~small~~ inefficient air conditioning system!

Mr. Chairman: Mr. Shibley has suggested he would like to ask a line of questions over the matter of notice and time of notice and things of that nature. Now I was going

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(Mr. Chairman)

to put in a remark there, too. You referred to proper notice, Mr. Walker, at one place and I know MR. Renwick ~~was~~

Mr. Walker: I agreed entirely with MR. Renwick on the first day, Mr. Chairman.

Mr. Chairman: Well, of course, the ~~was~~ original thought of the committee or original decision of the committee was that we would not call people on Speaker's warrants ~~and~~ Mr. Renwick objected to that, and one or two others, who thought that was the proper procedure. We had decided that it would be done by way of letter but I asked for some flexibility on the basis that people might be within easy reach and we might want to reach them in a hurry. On that basis, I asked for some flexibility. Now I think an oral notice is reasonable ~~if they are~~ and ~~ready~~ to come, and once they do come before us, then I think they are subject to be called as witness once they are in the room, for instance. So when you say proper notice, I want to take some question of that because I feel that on the basis of the decision ^{is} the committee made earlier, allowing some flexibility to ~~us~~ that Mr. Cronyn did have proper notice, even though it wasn't long notice. Mr. Shibley.

Mr. Shibley: Mr. Chairman, I am concerned at the suggestion emanating from the last line of questioning, that this witness had ~~some~~ inadequate opportunity or counsel to prepare himself for his first attendance to give evidence. Mr. Cronyn, you first gave testimony on June 21, is that correct?

Mr. Cronyn: That is correct, sir.

Mr. Shibley: And on June 20, you received word that Mr. Bell was attempting to communicate with you and instructions?

Mr. Cronyn: Yes, sir.

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ivk

(Mr. Shibley)

~~you discussed with Mr. Cronyn the possibility of communicating~~

~~with Mr. Cronyn~~

Mr. Cronyn: Yes.

Mr. Shibley: And is it not a fact that you, in turn, arranged that a communication be established with you at the offices of your solicitors on that evening?

Mr. Cronyn: No, sir.

Mr. Shibley: At six o'clock?

Mr. Cronyn: I think

Mr. Shibley: Pardon?

Mr. Cronyn: the line of communication was to a house

where
I was going to a cocktail party.

Mr. Shibley: Was that house the house of a lawyer in the firm representing you?

Mr. Cronyn: Yes, it was.

Mr. Shibley: So, as at the time ^{of} the ~~initial~~ initial communication between yourself and Mr. Bell and/or myself your ^{then} counsel, and I'm not talking about Mr. ~~Shibley~~ ^{Shibley who has} gone on record as not knowing anything about these proceedings until, I believe, last Wednesday night, but as at June 20 you were in company with your then counsel were you not?

Mr. Cronyn: At a cocktail party.

Mr. Shibley: Pardon?

Mr. Cronyn: It was his cocktail party. I was there at his cocktail party.

Mr. Shibley: Did you discuss the subject of your being called as a witness with him? ^{Without} ~~without~~ telling me what the discussion was, was it a topic of conversation or advice at that time?

Mr. Cronyn: No, he simply ~~just~~ related to me the message that - I don't know whether it was Mr. ~~Mr.~~ Bell or yourself talked with him and got me to call - or said you'd be calling, or Mr. ~~Mr.~~ Bell would be calling ~~me~~ back and that that phone call eventually came

Mr. Shibley: In any event, Mr. Cronyn, have you had legal counsel referable to the giving of your testimony since what date?

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fvk

Mr. Cronyn: It depends on what you call legal ~~a~~ counsel.

Mr. Shibley: It's been put ^{initially} ~~initially~~ by Mr. ~~_____~~

Mr. Cronyn: The first time I had formal legal counsel was when Mr. Eberle came into the ~~_____~~ picture last Thursday.

Mr. ~~Sh~~ Shibley: I would like to know whether you have had the ~~a~~ benefit of advice referable to these proceedings, whether you ~~call~~ call it formal or informal and, if so, when did you first commence to receive that kind of assistance?

Mr. Cronyn: Sometime early in June I think I had lunch with Mr. Goodman and we discussed a number of subjects, one of them being that I might be called in this inquiry. We casually discussed whether I needed counsel to represent ~~me~~ or not. We ~~then~~ decided that it was an inquiry for evidence. He didn't see any reason that I needed to be represented by counsel and I agreed with him.

Mr. Shibley: You mentioned his name. I hadn't intended to. Was it while you were in Mr. Goodman's company on the evening of June 20 that communication was finally established between Mr. Bell and you?

Mr. Cronyn: Yes, at a cocktail party, with some 75 people milling around.

Mr. Shibley: Did you know that Mr. ~~Goodman~~ Goodman ~~had~~ spoken to Mr. Bell earlier ~~_____~~ ^{ing} establish contact with you?

Mr. Cronyn: Yes, I just covered that point a minute ago.

Mr. Shibley: Now then in addition to the information imparted to you as to what Smith had said, the essence being that you were the person ^{8/6H in} ~~_____~~ the party, ~~etc.~~ did you also have the opportunity of reading the transcript of Mr. Smith's evidence on the following ~~morning~~ morning?

Mr. Cronyn: When I came in I had gone through this a couple of times.

Mr. Shibley: But did you read it?

Mr. Cronyn: I had a chance to skim some parts that Mr. Bell marked for me ~~at~~ at the ~~same~~ same time as I was listening to Mr. Smith give the ~~_____~~ remainder of ~~his~~ his testimony.

Mr. Shibley: Your evidence therefore amounts to, notwith-

July 3/73
12.30 to 12.35 pm
fvk

(Mr. Shibley)'

standing the conversations that you have referred to that you had
with Smith in June, Notwithstanding the conversations you had with
Mr. Goodman earlier in June, Notwithstanding that you were alerted
to the circumstance that you were the person high in the party and
close to the cabinet referred to in the article, ~~that you had~~
~~that you had~~ ~~that you had~~ ~~that you had~~ ~~that you had~~ ~~that you had~~
~~to also~~

(Tape H-864 follows)

July 3, 1973
12.35 - 12.40 p.m.
M.R.

(Mr. Shibley)

↓ You do not consider that you had sufficient forewarning of the need for your attendance to give evidence before this committee?

Mr. Cronyn: I'm not complaining about the time. I just have said that it didn't give me a very good opportunity, as I said in my opening statement, to prepare myself for this evidence-giving.

Mr. Shibley: And that is your explanation for not remembering the letter?

Mr. Cronyn: That is part.

Mr. Chairman: Mr. Glen Hodgson, did you have a question?

Mr. R.G. Hodgson: Yes. I wonder if ~~he~~

Mr. Deans: Mr. Chairman, might I just ask if you are going to pursue questioning further at this time?

Mr. Chairman: Well, I gather that Mr. Glen Hodgson's is, perhaps, the only question left.

Mr. Renwick: No, I have some questions.

Mr. Chairman: You have some questions?

Mr. Gaunt: And I have some questions.

Mr. Chairman: Well, all right then. On that basis, then, we will adjourn until 2.00 o'clock.

.....

APPEARANCES

Committee members:	J.N. Allan
	J.E. Bullbrook
	I. Deans
	M. Gaunt
	L.C. Henderson
	R.G. Hodgson
	W. Hodgson
	J.P. MacBeth (Chairman)
	W. Newman
	J.A. Renwick
	G.W. Walker
Clerk of the committee:	Paul Moore
Committee counsel:	R.E. Shibley, QC
Ontario Hydro counsel:	Pierre Genest, QC
	James McCallum, QC
Canada Square Counsel:	Douglas Laidlaw, QC
	Blair Cowper-Smith
Counsel for J.W. Manthorpe and Gerald McAuliffe:	E.M. Lane
Counsel for J.D. Smith, Mrs. A.M. Shuttleworth and D.V. Grant:	John Brownlie
Counsel for J.B. Cronyn:	J.B. Eberle, QC
Senior vice-president, John Labatt Ltd.:	J.B. Cronyn

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Tuesday, July 3, 1973

Afternoon session

LEGISLATURE OF ONTARIO
SELECT COMMITTEE--HYDRO HEADQUARTERS
H 865 - 1

July 3/73
2:05 - 2:10 pm.
M.S.

The committee resumed at 2:05 pm.

Mr. Chairman: Ladies and gentlemen, we have a ~~quorum~~ quorum. Mr. Cronyn is with us, so I would ask him to resume his place and ^I call the meeting to order. Mr. Shibley?

Mr. Shibley: I believe, Mr. Chairman, at the recess, Mr. Renwick and a number of other members indicated they wished to ask questions of the witness. I had completed my examination of the witness.

Mr. Chairman: I think Mr. Glen Hodgson was first on the list, but if you are ready to ^{go} ahead, Mr. Gaunt, fine.

Mr. Gaunt: I have two or three questions, Mr. Chairman. As a director of Ellis-Don, how close are you to the day-to-day operations of the company?

Mr. Cronyn: Not very close. We have periodic directors' meetings, ~~and~~

Gaunt:
Mr. Shibley: You may recall that Mr. Smith has been fired (2) indicated that Mr. Stewart has since ~~been~~ from the company. Do you know anything at all about the circumstances surrounding ~~this~~ that?

Mr. Cronyn: Nothing at all, ~~undoubtedly~~

Gaunt:
Mr. Shibley: Have you never discussed it?

Mr. Cronyn: No, I have not, ~~undoubtedly~~

Gaunt: being fired

Mr. Shibley: Was his ~~dismissal~~/anything to do with the loss of ~~the~~ jobs by the company - the loss of the Hydro Commission job, for instance?

Mr. Cronyn: Well, Ellis-Don is pretty ~~much~~ much a one-man show.

Gaunt:

Mr. Shibley: Now then if I may get to the ~~letter~~ letter of July 14, for a moment

~~Mr. Cronyn~~As you know it was marked personal and confidential. And I believe the evidence was that you had thrown that particular letter away. Is that so?

July 3/73

2.05 - 2.10 p.m.

P. B.

that I have made ~~but I~~ Mr. Cronyn: That is correct. I have searched the files
Mr. Gaunt: I am curious as to why you would do

that, Mr. Cronyn. Are you in the habit of going through your personal and confidential letters every once in a while and picking out those letters you don't want?

Mr. Cronyn: I usually ~~throw~~^{know} anything away that I know I'm not going to do anything about, ~~that~~^{that} I have nothing I can do with it; I get rid of it.

do with it; I get rid of it.

Mr. Gaunt: So that this particular incredible procedure you followed in this instance Did you discuss with Mr. Smith that you were going to do what the father? Did you talk with Mr. Smith about it --- Did you ever answer

Mr. Smith?

Mr. Cronyn: No, sir.

Mr. Chairman: Are you through, Mr. Gaunt? Mr.

Glen Hodgson.

Mr. R.G. Hodgson: Mr. Chairman, I was curious to hear ~~you are~~ ^(inaudible) familiar with the evidence given by ~~the witness~~ ^(inaudible)

Mr. Chairman: Mr. Hodgson, would you speak up a little louder, please. The machine is having a little difficulty.

Mr. R.G. Hodgson: Did you have in mind, Mr. Cronyn, that Mr. Smith might be one who would deal ^{with} ~~in~~ hearsay rather than the facts before him?

Mr. Cronyn: I don't think the thing occupied my mind, as I've said before.

Mr. R.G. Hodgson: Mr. Smith said ~~something~~ ^{nothing} to you ~~about~~ ^{his} having phoned?

Mr. Cronyn: No he did not.

Tape 866 follows

July 3/73
2.10 to 2.15 pm
fvk

Mr. Chairman: *5*

Mr. Mr. James Renwick.

Mr. Renwick: Mr. ~~Chairman~~ Cronyn, I have a number of questions.

Mr. Chairman: We can't hear you, Mr. Renwick.

Mr. Renwick: I'll try to speak ~~out~~ up a little then.

Can you hear me now?

Mr. Chairman: Yes, thanks.

Mr. Renwick: In respect to the July 14 letter, in order that I can deal with it ~~in the context of the subject~~ *at the outset*, I'd like to hear any recollection you can make about that letter, *not about its contents... ~~now~~ about it in detail but about its existence.* Are you saying to the committee because that you couldn't find the letter over the weekend you must have destroyed it or thrown it away or that you don't recall ever receiving the letter?

Mr. Cronyn: No, I recall ^{it} I said I recall ~~receiving~~ *receiving* the letter but I didn't say ~~in my evidence that I~~ *in my evidence that I* but I thought, to the best of my knowledge, that I had destroyed it.....
.....A search of the files confirmed that I had done this.

Mr. Renwick: So that for the purpose of the recordsyou received the letter, perused its contents and promptly destroyed ^y it?

Mr. Cronyn: Yes, sir.

Mr. Renwick: Now, if you would refer to the evidence that you gave on June 20, I ~~have~~ have, for ~~reference~~ *reference* referred to the various meetings by number and I made my own numbers so that you can readily identify them, *on page 675-2 of Hansard.* There were two meetings, which I have marked, one ~~in 1971~~ *two in 1971*, and *this time* at that ~~point~~ to eliminate the two ~~consequential~~ *consequential* ~~authorities~~ *things*.

Those two meetings for discussion, ~~or~~ conversation, the first one ~~is~~ being the one referred to in the first line, that
I recall saying
"Mr. Cronyn" ~~was~~ *was* ~~in~~ *in* 1971?" Then the second

July 3/73
2:10-2:15 pm
FVK

one about halfway down where he says: "I'll be ~~back~~

I have referred to that in my notes as number two but I consider that, as relating to matters in 1971, being ~~not~~ consequential.

But the first meeting that I want to come to is the next one referred to. Mr. Cronyn said, "I think that the next one really was, I ~~a~~ guess, the spring of 1972 when he (Mr. Smith) told me that he felt he was ~~xxxx~~ getting the runaround and ~~wasn't~~ ^{getting} the proper hearing for his proposition."

I want to ask you, or try to assist myself, to pinpoint this. I'm referring to the evidence on the top of Page 676-2. ~~Mr. Cronyn~~ ^{Mr. Smith}, in fact, ~~speak to me (Mr. Smith)~~ ^{refer to} the dinner conversation that he had with Mr. Camblin in February 1972?

Tape H 867 follows

H 867-1

July 3/73
2:15-2:20 pm
PLG

(Mr. Renwick)

Do you recall him telling you that at the dinner with Mr. Tamblyn he got very upset and couldn't enjoy the ~~next~~ rest of his dinner? And that was on February 17.

Mr. Cronyn: No, my recollection is the same as my testimony which I think was that I ~~am~~ don't think Mr. Tamblyn's name came into it at all. It was simply that he had heard it from somebody in the trade in Toronto.

Mr. Renwick: The Tamblyn dinner was in ~~February~~ February. Do you recall having a discussion in February of 1972 with Mr. Smith? May I ask you to consider the testimony at the bottom of page 676-1. There is a reference by Mr. Shibley who questions you. He asks:
"In other words, it might have been as early as February 1972, when you had this conversation?"

"Mr. Cronyn: It could have been, yes."

I take it that you can't assist us in pinpointing that discussion?

Mr. Cronyn: No I'm afraid I can't.

Mr. Renwick: Now in respect to Page 677-2, near the bottom of the page, there's the meeting or conversation or discussion which I've referred to as No. 4.

July 3/73
2:15-2:20 pm
PLG

(Mr. Renwick)

et me refer~~ence~~ to your answer to Mr. Shibley:

"Mr. Shibley: All right. Well, when was the next communication?

"Mr. Cronyn: Well, it's hard to say whether it was in the summer or fall; and it was just a continuation of the same sort of reaction, that he really was getting nowhere. And then I suppose ~~he~~ when the contract was let sometime in the fall of 1972, he certainly got some reaction there; pretty much of a ⁶Well, I told you ⁰so, this was what was going to happen.²

"Mr. Shibley: Let's go back for a moment to the communication ~~in~~ in the summer or summer-fall of 1972. Can you be more precise as to the time of that communication?

"Mr. Cronyn: Well, when was the contract let? When did it become known?

"Mr. Shibley: It was signed on November 1 and published, I believe, shortly thereafter."

~~It was prior to the contract.~~

~~Indicate~~

Now, at the middle of the page:

I took it from your earlier answer,

"Mr. Shibley: ^Ithat there were two discussions, one in the summer-fall and prior to the contract being published, and then another one in the fall of 1972 when he said, "I told you so."

"Mr. Cronyn: Well, if we had one in the summer, it was a very casual one during...

"Mr. Shibley: That's the one I want to deal with first.

"Mr. Cronyn: That was simply a comment or a request from me, I guess, "How are things going? Don had really given up at that point.

"Mr. Shibley: Where did this conversation take place?

"Mr. Cronyn: Probably at our cottages at Grand Bend.

H 867-3

July 3/73
2:15-2:20 pm
PLG

(Mr. Renwick)

"Mr. Shibley: Did he again tell you that he felt he was getting the runaround?

"Mr. Cronyn: No. Really at this point he had given up; he had just washed his hands of it."

Well, I call that meeting 4A, in the summer of 1972. ~~Are~~ Are you in a position now to confirm that that conversation, presumably at your cottages, did take place and whether it was at your cottages?

Mr. Cronyn: I can't confirm it. I just expect it would be there because that would be the likely place.

Mr. Renwick: During the summer of 1972?

Mr. Cronyn: Yes.

Mr. Renwick: Mr. Chairman, I would like to refer to the Exhibit No. 175, a personal and confidential letter from Mr. Smith, on July 14.

During the summer of 1972 at your cottages, you said you probably saw a reasonable amount of each other.

Would there have been any occasion for you to have commented to Mr. Smith or Mr. Smith to have commented to you about this letter of July 14, 1972?

Mr. Cronyn: There might have been but I certainly don't recollect any discussions.

Mr. Renwick: So that this casual ~~discussion~~ conversation, that I call 4A in the summer of 1972 which you indicate was at your cottages, did not give rise to any comment about this letter at all?

Mr. Cronyn: No, it did not.

Mr. Renwick: For the purpose of refreshing your memory, have you had an opportunity to read Exhibit 175? I assume you have. Do you have any recollection of your impression

x0x H 867-4

July 3/73
2:15-2:20 pm
PLG

(Mr. Renwick)

at the time you received this letter?

Mr. Cronyn: No recollection at all.

Mr. Renwick: You think it would be quite normal, even though you were seeing each other at your cottages during the summer, that this matter was not again raised?

Mr. Cronyn: I don't ~~recall~~ recollect this letter being raised.

Mr. Renwick: Now Mr. Cronyn, the next meeting, which is the one I've referred to as 4B, is the one which I understand took place in the fall of 1972 -- page 678-1, just past the halfway mark on the page.

Tape H 868 follows

July 3/73
2.20-2.25 p.m.
E.M.

~~Mr. Chairman:~~ Mr. Chairman: You are going to be a little while, are you? We might as well have a recess. ~~Mr. Chairman:~~

Mr. Renwick: That would be better than losing part of the record.

Mr. Chairman: We will recess for 10 minutes.

Mr. Chairman: At the present time, we have only three microphones that are working, Mr. Chairman and Mr.

Shibley have one; Mr. Cronyn, the witness, has one, and ~~at present~~ *Mr. Renwick has one.*

But if anybody wants to make an interjection, they will first have to ^{get} ~~enter~~ Mr. Renwick's eye and get the release of his microphone and he will have to pass it across the floor so Mr. Allan or somebody else can make that ~~an~~ interjection. ~~but~~ If you are to make an interjection, remember that the microphones, other than the three I have mentioned, will not pick it up.

Now, we are attempting to get the electronic expert, who comes from Government Services and I think he is presently on his lunch hour. We will see how long a government lunch hour is.

With that, Mr. Renwick, would you proceed, please?

Mr. Renwick: Mr. Chairman, if I could just pick up. I was dealing with the fall meeting or ^{fall} conversation between Mr. Cronyn and Mr. Smith, which is the subject of the questioning by Mr. Shibley on pages 678-^{on 1}12.

Now, if I may, Mr. Cronyn, turn to the meeting with Mr. Fleck or the discussion or conversation with Mr. Fleck, I take it it was a meeting? This is at the top of page 680-1.

JULY 3/73
2.20-2.25 p.m.
E.M.

(Mr. Renwick)

When you say it was a meeting, ^{you mean} that you ~~met~~ ^{met} in person?

Mr. Cronyn: Oh, I ~~met~~ ^{met} him personally, yes.

Mr. Renwick: In person between you and Mr. Fleck?

Mr. Cronyn: Yes.

Mr. Renwick: Was anybody else present at that ~~meeting~~ meeting?

Mr. Cronyn: I don't think so, sir.

Mr. Renwick: Who initiated the meeting?

Mr. Cronyn: Well, I periodically drop in and see

Mr. Fleck when I'm in town.

Mr. Renwick: On this particular occasion, can you recall whether Mr. Fleck called you about it, you called him, or you just dropped in to his office or he dropped in to your office?

Mr. Cronyn: No, I dropped into ~~his~~ his office.

Mr. Renwick: You dropped in to his office?

Mr. Cronyn: Yes.

Mr. Renwick: And can you now help us with any clearer recollection of the date of that meeting, Mr. Cronyn, between you and Mr. Fleck when you dropped into his office?

Mr. Cronyn: No, I'm afraid I can't, sir. We went through that, I think this morning.

Mr. Renwick: On the assumption - and I understand the problem of assumptions - but on the assumption that Mr. Fleck will give his evidence that it was some time between the 1st and the 13th or 14th of November of 1972, you ~~must have~~ would have no reason to dispute that you ^{met} met during that period of time?

Mr. Cronyn: Well, I think I covered that point this morning with Mr. Shibley.

H-868-3

July 3/73
2.20-2.25 p.m.
E.M.

Mr. Renwick: Well, would you mind covering it again for me? Would you have any reason to dispute what appears to be the evidence, which I understand that you know, that Mr. Fleck is going to indicate that the date was between the 1st and the 13th?

Mr. Cronyn: No, I didn't say that I knew he was going ---

Mr. Renwick: Oh, excuse me.

~~_____~~

(Tape 869 follows)

July 3, 1973
2.45-2.50 pm
V.H.

~~Mr. [redacted] Mr. [redacted] no body has one~~
~~recording machine at the present time and I think they~~
~~have [redacted]~~

~~Mr. W. Newman: Would he wear out sometime Mr~~
~~Chairman?~~

~~Inter [redacted] [redacted]~~

~~Mr. Renwick: Mr. Fleck is going to indicate~~
~~that the date was between the 1st and the 13th.~~

~~Mr. Cronyn: No. No. I didn't say that I knew~~
~~that he was going to~~

~~Mr. [redacted] [redacted] [redacted]~~

Mr. Cronyn: — this was Mr. Shibley who gave
me that information.

Mr. Renwick: Well, let me then in order to perhaps
save time, put it in the hypothetical, if Mr. Fleck indicates
that the meeting was between the 1st and the 13th, which is
my understanding of what Mr. Shibley indicated that Mr. Fleck
in all likelihood was going to give by way of evidence, would
you have any reason to dispute that as the time period within
which that meeting took place?

Mr. Cronyn: I think I said this morning, I simply
couldn't pinpoint when it was. My recollection was that it
was in late November or early December but I am not firm
enough on it that I could get into a dispute with Mr. Fleck
if he was sure that's when the meeting was.

Mr. Renwick: Now then, with respect to the meeting
with the Premier and again, very briefly, because I covered
this in my former questions to you on June 21, your evidence
on page 683-1 is that:

"Mr. Cronyn: I said that I thought the discussion
I had with the Premier was in the fall and I think it was probably
in November."

July 3, 1973
2.45-2.50 pm
V.H.

(Mr. Renwick)

You will recall that you weren't sure of the time in the fall and you thought it might have been in the summer, and then when we came back after a break, you came in your own mind to the conclusion that it was during November.

Mr. Cronyn: That is correct sir.

Mr. Renwick: Can you assist the committee in any way as to the time at which that meeting took place with the Premier during the month of November?

Mr. Cronyn: No I can't ~~pick~~ pick the time during the month of November. The reason I am fairly firm that it was in the month of November ~~was~~ ^{has} that ^{has} was when Task Force Hydro's number one report was issued and we had a fair number of discussions during those days with the Premier. It was also the same time that I was engaged in writing a report number 10 for C.O.G.P. and it is in that report where we touch on this question of dispersal.

Mr. Renwick: So for the purposes of the committee, we can assume that that discussion took place, so far as your recollection is concerned, in November, but you can't earmark ~~it~~ ^{it?}

Mr. Cronyn: That is correct.

Mr. Renwick: Now then if I may refer to what I have referred to as communication number 5 which is the "famous" telephone conversation --

Mr. Shibley: Mr. Renwick, while you are looking up that, I would just like to complete your last area of questioning by asking the witness, on your earlier testimony you indicated that what prompted you to make these comments to Mr. Fleck, ~~were~~ you believed was the article disclosing that Mr. R.F. Nixon had tabled questions in the House. If, in fact, the meeting took place during the period Mr. Fleck indicates it took place, namely within the first 13 days of November, and before Mr. Nixon tabled the questions, what prompted you to make those comments to Mr. Fleck?

July 3, 1973
2.50 - 2.55 p.m.
M.R.

(Mr. Shibley)

~~...to make those comments to Mr. Fleck.~~

Mr. Eberle: Excuse me, Mr. Chairman, but it seems to me this is a purely hypothetical question. The witness has said that to the best of his recollection the meeting took place in December.

Mr. Shibley: No, he has not, Mr. Eberle. With respect, Mr. Chairman, there will be evidence given by Mr. Fleck as to the precise timing of that get-together. There is nothing hypothetical about that. If, in fact, Mr. Cronyn made those comments about Ellis-Don in the first 13 days of November, what prompted him to make those comments to Mr. Fleck at that particular time?

Mr. Eberle: But, Mr. Chairman, it is not Mr. Cronyn's evidence that the conversation ~~took place~~ with Mr. Fleck took place at that time, and for that reason the question is purely hypothetical.

Mr. Bullbrook: Well, Mr. Chairman, that is not correct at all. It is not correct at all. As I understand the evidence, Mr. Cronyn cannot pinpoint when in November.

Mr. Eberle: That's it. He said, "to the best of his recollection" and he's given the reasons ~~and~~ to ask him, "Well, if it took place at some other time, some other time than you say it did, what were your reasons?" is, in my respectful submission, a purely hypothetical question.

Mr. Bullbrook: Counsel for Mr. Cronyn must recognize that there is nothing hypothetical in it at all. He is not able to pinpoint the date for us, so we are able to conjecture that it is sometime in November. Now if he can help us by telling us absolutely that it took place before November 13th, that's fine.

Then, of course, counsel for Mr. Cronyn is absolutely correct.

July 3, 1973
2:50 - 2:55 p.m.
M.R.

Mr. Chairman: Well, I don't think any of us are in a position ~~to~~ yet to come to a conclusion exactly when that meeting did take place.

Mr. Bullbrook: And we are not, Mr. Chairman, concluding it and our counsel isn't concluding it. He's saying, in effect, as I understand it, recognizing that you are unable to help us with any direct evidence other than it's sometime in November, premising that it's before November 13th, what is your motivation? *Counsel for Mr. Cronyn*

Mr. Chairman: I understand it but I do believe it is a hypothetical question.

Mr. Bullbrook: Well, Mr. Chairman, it's absolutely not a hypothetical question.

Mr. Chairman: Are these working?

Mr. Renwick: Are we all right? ~~Mr. Bullbrook~~

Mr. Chairman: I think that is the only way we can go about it on the basis of Mr. Eberle's objection. At the present time, I think Mr. Eberle's objection is quite reasonable. He is not ready to admit that this meeting did take place in November from Mr. Cronyn's evidence.

Mr. Renwick: Now, just a moment, Mr. Chairman, Mr. Cronyn's evidence, which is quite clear, is that that ~~was~~

Mr. Chairman: He is not able to deny it took place

in November. *Mr. Bullbrook* ~~Mr. Eberle~~: That is right.

Mr. Renwick: That is ~~right~~ correct.

Mr. Shibley: What I would like to know from Mr.

Eberle is this: ~~Mr. Fleck~~ *Mr. Fleck* in that witness box tomorrow and say as follows: "I know that the conversation with Mr. Fleck took place in the first 13 days of November ~~and~~ because Mr. Candy prepared a written ~~narrative~~ narrative of how this contract was let, at my instance, and that narrative is dated November 15th, the draft of that narrative is dated November 13th,

July 3, 1973
2:50 - 2:55 p.m.
M.R.

(Mr. Shibley)

and what caused me to require that narrative to be prepared was the comments made to me by Mr. Cronyn and the rumour I had heard that the Globe was doing an investigation."

Now, let's presume that Mr. Fleck gives that testimony tomorrow. Would Mr. Eberle still consider the question hypothetical? Because if so, there is no point in recalling the witness on the ruling of the chairman. If not, then I'm quite prepared to ask that Mr. Cronyn be available here tomorrow to testify, subsequent in point of time, to the evidence of Mr. Fleck.

I had attempted to avoid that by anticipating Mr. Fleck's evidence in terms of what he had communicated to me being made a matter of record through me.

Now the ball is in your court.

Mr. Eberle: Yes, thank you, Mr. Shibley. My position would be exactly the same. How can you possibly ask a man, anybody, what his motive was for doing something at a particular time when his evidence is that to the best of his recollection he didn't do it at that time at all?

That is simply a waste of time.

Mr. Bullbrook: That isn't his evidence. May we address ourselves to the final remark made by Mr. Eberle? Is it the evidence or is it not the evidence of his client that he didn't meet prior to November 13th? Because I understood his evidence to be that he can't pinpoint the date in response to Mr. ~~Rensick~~ *Rensick*

~~You see, Mr. Eberle, Mr. Chairman, it's absolutely correct. It's his client's evidence.~~

H-871 to follow

H 871 - 1

~~That he didn't meet prior to November 13th.~~ You see, Mr. Eberle, Mr. Chairman, is absolutely correct. If his client now tells us under oath that he didn't meet prior to November 13th. I understand his response to my colleague, Mr. Renwick, is that he can't pin-point the time.

Mr. Bulbrooke: That doesn't soften my response at all.
I didn't have to be this morning here, unfortunately or otherwise,
to just recall the response [see, para. 10]

Mr. Bulbrook. I am glad to hear that, very much.

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Have you no evidence to proffer to this committee in explanation as to why you made the comments to Mr. Fleck if this committee concludes that you made those comments to him during the first 13 days of November, 1942 ~~(period)~~

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2:55 - 3:00 pm.
M.S.

Mr. Chairman: ~~He might have, in~~ He might have, in his mind, alternate reasons why he might have made them. But I think ~~—~~

Mr. Eberle: He has given his evidence on this point, and it seems to me, Mr. Chairman, that we're flogging a dead horse.

Mr. Chairman: Well, this may be evidence to show that Mr. Fleck is wrong with his memory. If Mr. Cronyn has said, "these are the reasons I made it," then it maybe could not have been made in November. And I think these are conclusions we'll have to wait until after we've heard Mr. Fleck. Now, if the committee decide they would like to hear Mr. Cronyn again, I'm not appreciating these repeat performances, but if that's what happens, maybe that's the ~~the~~ way we will have to proceed. But in view of Mr. Eberle's reply on behalf of his client, I think we'll have to accept that for the present time.

~~Mr. Eberle:~~

Mr. Chairman: Mr. Renwick, I think we're back with you, sir.

Mr. Renwick: Thank you, Mr. Chairman. Mr. Chairman, I would like Mr. Cronyn to advise me that whatever the precise time was during which he dropped in to see Mr. Fleck, would he give the committee the reasons why he went over in detail the salient items of Mr. Smith's problems with the Hydro head office call for proposals?

Mr. Cronyn: Well, Mr. Renwick, I went through ~~that~~ that after the recess this morning, in order to try ~~and~~ ^{to} help Mr. Shibley.

Mr. Renwick: Well, I must ask you to try to help me as to what ~~the~~ ~~was~~ was the reason why you raised ^{it} ~~at~~ that point in time?

Mr. Cronyn: Well, do we have Hansard from this morning?

Mr. Renwick: No.


S 871 - 3

July 3/73
2:55 - 3:00 pm.
M.S.

~~Mr. Bullbrook: Well, can we clarify this? Can we?~~

Mr. Bullbrook: Well, can we clarify this? Can we? Am I to take it that the witness is entitled to respond to a member of this committee that he answered counsel that question this ~~morning~~ morning?

Mr. Chairman: No, I don't think so. Except I appreciate the witness' position and we had it before, Mr. Bullbrook, when the nature of our committee, or the manner in which it proceeds, is that every member may ask the same questions. Now, I'm thinking of our committees in the House when, so frequently, we permit every member to go over the same ground. And so far we have been doing much of it here. I haven't been objecting to it on the basis that, this being ^{an all} ~~a~~ party committee, I certainly wanted ^{each} ~~the~~ party to be able to attack the matter from the way they themselves thought best to attack it. And for that reason, I think we should proceed in that way now. We have certainly proceeded that way in the past. Our counsel has and.



Tape S 872 follows

July 3, 1973
3.00 - 3.05 p.m.
M.B.

(Mr. Chairman)

~~_____~~
~~_____~~
certainly Mr. Bullbrook, I've been looking at you, I know you are no different from Mr. Gaunt, but you are the legal member of the Liberal Party and I've been looking at Mr. Renwick as being the legal member of the NDP, although that differentiation in fact of course has not been made by anybody other than the chairman.

But that's been helping me guide a little bit and on that basis I have been proceeding that you can each conduct your own ~~own examination or~~ cross-examination or examination in that way.

Now, I don't think the witness should be able to answer: ~~then~~ "I gave you that answer this morning."

Mr. Renwick: Mr. Chairman, I don't want to get into an interpretation of the way in which you have been handling the committee. I have been perfectly satisfied with the way you have been handling the committee.

I must say, however, that the reason why I'm taking the time of the committee this afternoon and I think it's fair to say that in the record of the committee up to date, I have not asked very many questions ~~at~~ at any particular time.

I'm doing so this afternoon and I have a number of matters that I still want to raise and it may take me a little while, because I found Mr. Cronyn's evidence extremely confusing, on matters which I feel are very germane to my consideration of the problem ~~and~~ I want to shorten the deliberations of the committee in camera by trying to clarify now for the record exactly to the best of Mr. Cronyn's recollection what his participation in the discussions related to the Hydro contract were.

And I, as I say, ~~am~~ quite satisfied with the way that you are conducting it but I think it's fair to say that Mr. Deans and myself do not consider ourselves simply sitting here

July 3, 1973
3.00 - 3.05 p.m.
M.R.

(Mr. Renwick)

in a partisan role. We are all members of the Ontario Legislature appointed as a select committee, separate and distinct from our particular partisan views, which we, all of us, have got an obligation to play down and eliminate, if that is conceivably possible, and we all know how difficult ~~that~~ is.

I want to go back, Mr. Cronyn, because as I take - and I'm quite prepared Mr. Cronyn if you wish to wait until the Hansard is available, - fine. I'm not worrying about that. The reason for my questioning is your counsel's interjection that somehow or other the matters which you raised with Mr. Fleck when you dropped in to his office and your motivation for doing so, will depend on when that took place.

And I assume that that is not a relevant matter in your mind, that whatever motivated you was what motivated you at the time and whether that was between the first of November and the 13th or between the 13th and the 30th or after the 30th is now not relevant.

You had a motivation when you went in to his office. And I want to know what that motivation was.

Mr. Cronyn: Well, this is what I tried to explain to Mr. Shibley this morning. The motivation was the same whether it was ~~any time~~ any time after the first of November. Because the 1st of November the Hydro contract was signed.

Mr. Renwick: Now, Mr. Chairman, ~~in the~~ - perhaps the representatives of Hydro can help me - was there ~~any~~ public announcement of the signing of the contract with Canada Square on or after the 1st of November?

Mr. Genest: No. There was a public announcement on the 25th of August.

Mr. Renwick: Yes, Mr. McCallum helped us with that, earlier.

Mr. Genest: But I don't know of any announcements of the signing of the contract.

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July 3, 1973
3.00 - 3.05 p.m.
M.R.

Mr. Renwick: Mr. Cronyn, you have indicated on

a couple of occasions that the reasons why you can indicate the 1st of November is that the contract was signed. Do you recall how that came to your knowledge, that the contract was signed with Canada Square, because we have no evidence of any public announcement having been made in our records so far?

H-873 to follow

July 3/73
3.05 to 3.10 pm
fvk

~~(Mr. Renwick: I remember)~~

~~... do not feel that somewhere in a citation like this a person should be protected against this because we have no evidence of any public announcement having been made in our records as far as~~

Mr. Cronyn: No, I don't ~~xxx~~ have any way of knowing how I knew it.

Mr. Renwick: Right.

Mr. Cronyn: Looking ~~a~~ back, of course, it's been in the evidence here ~~a~~ number of times; it ~~xxx~~ ^{has been spoken of}.

Mr. ~~xxxx~~ Renwick: Oh, yes, it has been in the evidence here but when you dropped in to see Mr. Fleck, so far as we're aware, there hadn't been any public announcement, but you're satisfied that when you ^{saw} ~~xxx~~ Mr. Fleck, or are you satisfied that when you saw Mr. Fleck and raised the questions about Ellis-Don, you knew that the contract had been let to Canada Square, and signed?

Mr. Cronyn: Yes, I'm satisfied, yes.

Mr. Renwick: If I may then turn to what I've referred to as item number five of the discussions on page 678-2, the "famous" telephone call. Again, I'm simply asking your assistance in fixing the time of the telephone call. In your evidence ^{on} ~~xxx~~ June 21, at the bottom of page 678-2; ~~xxxx~~

"Mr. Cronyn: Well, it must have been made subsequent to December 12, which I believe was the date that it was on the order paper, the questions were on the order paper for Mr. Nixon, the twelfth, or thirteenth or fourteenth, somewhere in there in December."

Now, subsequently, if my recollection of your evidence of this morning is correct, that because it has ^{now} ~~xxx~~ been tabled as an exhibit, is it ⁵ the date of Mr. Nixon's tabling of the questions?

Mr. Chairman: I don't think it was an exhibit, it was information given to us at the start, I believe.

Mr. ~~xxxx~~ Renwick: In any event \Rightarrow

Mr. Genest: It was filed?

Mr. ~~xx~~ Bullbrook: Yes, it was.

Mr. Shibley ^{answers are}
~~xxxxxxx~~ The incident part of the exhibit ~~was filed~~.

Mr. Gaunt: ~~By~~ December 14.

Mr. Renwick: In any event, on the order paper of the Ontario Legislature, No. 90, for December 1, 1972, Mr. Nixon's questions appear. I take it from your evidence this morning that you may not now be sure that the telephone call took place on December 12, 13 or 14 but at some earlier time. Could you help us with that time?

Mr. Cronyn: I think it got clarified, as ~~we~~ ^{we} went along through my original evidence, that it was between the appearance on the order paper of the questions which, somewhere in the discussions, the date came out to be the first rather than the 14; ~~and~~ the 14 was when the answers were tabled. I have consistently said, to the best of my knowledge, the phone call took place subsequent to the tabling of the questions but before the tabling of the answers.

Mr. Renwick: Are you in a position to give us any clearer indication of that date now?

Mr. Cronyn: No, I am not, sir.

Mr. Renwick: Anything specific - nothing that you can hang your hat on as to when that date took place?

Mr. Cronyn: No, I've attempted in my own mind to pinpoint this and that's the best I can do.

Mr. Renwick: Would there be anything that would make you believe that it did take place after December ~~21~~ 1, other than this question of the order paper?

Mr. Cronyn: No, I have no other ~~to~~.

Mr. Renwick: It could have been ~~before~~ before that date?

Mr. Cronyn: No, I don't say that. I say that the key ~~is~~, it must have been after the questions appeared on the order paper.

Mr. Renwick: Mr. Cronyn, I want to be perfectly frank with you, this is exactly where I have great difficulty with your evidence about this matter.

Mr. Cronyn: That was one of the reasons that I called Mr. Smith.

Mr. Renwick: Mr. Cronyn, at the bottom of page 678-2:

"Well, it must have been made subsequent to December 12, which I believe was the date that it was on the order paper."

(Tape H 874 follows)

EXHIBIT July 3/73
3.10-3.15 p.m.
E.M.

H-874-1

(Mr. Renwick)

Mr. Cronyn: The questions were on the order paper.

Mr. Renwick: Yes. Now, the order paper was now December the 1st, so you were incorrect in your evidence on June the 21st?

Mr. Cronyn: As to December 12th, yes, I was wrong.

Mr. Renwick: And you could equally well be wrong now that it took place after December the 1st?

Mr. Cronyn: No, I don't think so, sir, because the point that was in my mind was when the questions appeared in the order paper. The fact that I had the wrong date when we initially talked about it, doesn't change my evidence at all.

Mr. Renwick: Could you indicate to the committee at what point in time after the questions were on the order paper you called Mr. Smith?

Mr. Cronyn: No, I believe I just said I can't pinpoint the time, except between those two dates.

Mr. Renwick: ~~Has Mr. Cronyn any further evidence to add?~~ Could I refer you in this connection, Mr. Cronyn, to page 704-1 of Mr. Manthorpe's evidence, which is the afternoon of June the 21st.

Mr. Cronyn: 704-what?

Mr. Renwick: Dash one.

Mr. Cronyn: Yes.

Mr. Renwick: About half way down the page Mr. Manthorpe is giving evidence with respect to the first anonymous telephone call which he received from a man who turned out finally to be Mr. Smith:

"Mr. Manthorpe: All right, he said the government

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E.M.

H-874-2

(Mr. Renwick:

→ "was nervous about it, about the whole situation with Hydro, and I said some comment like 'Is that so?' and he said 'Yes, someone close to the Premier's office has called me and told me to keep quiet [redacted] about it'." "

Now, bearing in mind that that is what Mr. Manthorpe said and [redacted] bearing in mind that comment in the evidence of Mr. Manthorpe [redacted] about someone close to the Premier's office, and referring to page

(Tape 875 follows)



July 3/73
3:15 - 3:20 pm.
M.S.

(Mr. Renwick)

~~if I may refer to Mr. Manthorpe, bearing in mind that comment in the evidence of Mr. Manthorpe, about someone close to the Premier's office and referring to page 725-1 of Mr. Manthorpe's evidence.~~

Do we have that?

Mr. Cronyn: Yes, it's one that I ~~was~~

Mr. Renwick: Part way down the page:

"Mr. Renwick: So that, ~~so~~^{as} far as you can clarify the matter, it would be therefore in the week commencing Monday, November 27, 1972, that Mr. Smith told you about the call from someone close to the Cabinet?

"Mr. Manthorpe: As near as I can tie it down, yes.

"Mr. Renwick: You could say, could you, that it was not later than ~~that~~ that?

"Mr. Manthorpe: I am convinced that it was not later.

"Mr. Renwick: Not later than the end of that week?

"Mr. Manthorpe:

Mr. McCallium: What was that page again, sir?

Mr. Renwick: Page 725-1. Mr. Cronyn, I think our problem, as a committee, must be now clear to you. That Mr. Manthorpe has indicated, with great certainty, that the call from Mr. Smith to him, ^{from} which he referred to someone close to the Cabinet, was made during the last week of November of 1972.

Mr. Shibley: It was "close to the Premier", Mr. Renwick.

Mr. Renwick: Sorry. The quotation was "someone close to the Premier". Was that the correct phrase?

Mr. Shibley: In respect to Manthorpe, he ~~was~~

Mr. Walker: "Someone close to the Premier's office".

Mr. Renwick: "Someone close to the Premier's office".

Now, the week of November 27, 1972, the Monday is the 27, and the Friday is the 1. And December 1 was the date on which Mr. Nixon's questions appeared on the order paper. And we're going to have to make a conclusion as to who it was that Mr. Smith, assuming that ~~it~~

H 875 - 2

July 3/73
3:15 - 3:20 pm.
M.S.

(Mr. Renwick)

committee accepts Mr. Manthorpe's evidence, who it was that Mr. Smith was referring to in that comment. And our problem is, with respect to the date. Now, as I take it from your evidence, that ~~xxxx~~ the earliest that you would know about Mr. Nixon's questions would be if you saw the order paper of Friday, December 1?

Mr. Shibley: No, Mr. Renwick. He said his first notice of that was by publication in the press. And so the earliest would have been in publications of December 2. It wasn't from the order paper itself.

Mr. Renwick: Well, that was my point. I wanted to confirm that you didn't have occasion on Friday, December 1, to see the order paper?

Mr. Cronyn: No, I did not, sir.

Mr. Renwick: So that, Mr. Shibley's interjection is correct. That it was from some publication that you had notice?

Mr. Cronyn: Yes, sir.

Mr. Renwick: While I don't know when the publication took place, I assume the earliest date was December 2. Now, can you help the committee resolve that problem which, in my view, the committee's going to have to resolve one way or another, as to whether or not Mr. Smith was referring to any communication from you when he spoke with Mr. Manthorpe, which Mr. Manthorpe states was the last week in November of 1972?

Mr. Cronyn: Well, I thought that Mr. Smith had made it clear ~~that~~ that he didn't have a call from me until after he had talked to Mr. Manthorpe.....

Mr. Renwick: No, I wish all of those points were that clear. We will be able to view Mr. Smith's evidence and I was trying not to confuse that. All I can say is, from my point of view, Mr. Smith's evidence is not that clear, but we've really got down to the nub problem and I think you can.

Tape H 876 follows

July 3, 1973
3.20 - 3.25 p.m.
M.R.

(Mr. Renwick)

~~What I can say is from my point of view Mr. Eberle's evidence is not that clear but we've really got down to the nub problem~~

and I'm just asking you whether you can help us resolve that contradiction?

Mr. Cronyn: No, I really can't, sir.

Mr. Renwick: Now, I think I may have ~~some~~

Mr. Chairman: Mr. Eberle, earlier one of the members of the committee drew it to my attention that, from time to time, you are perhaps helping the witness with his answers. You are the first of the counsel ^{who has} ~~that is~~ actually sat beside the witness. This started this morning when I was looking over the counsel's table there and realized there was very little place elsewhere for you to sit and you sat there. I was perhaps at fault in not checking it at that time. So ~~that~~ we have not been limiting the counsel to the ~~objections~~ ^{objections} that they might make to the questions put, but I would ask you that that be your only communication with the witness.

Mr. Eberle: Mr. Chairman, I understood that other counsel had been sitting at this table and that was one of the reasons why I came here.

Mr. Genest: Mr. Chairman, I ~~do~~

Mr. Eberle: I haven't been helping the witness with his answers.

Mr. Genest: I am interested in this as a general policy. I haven't been doing it but I have always thought that I would have the right to sit beside a witness and that witness would have the right to seek advice in connection with an answer, having regard to the fact that "which counsel's ethical responsibilities responsibility is not to act to counsel?" I wouldn't like for you to sort of by a sidehanded ruling that a witness can't, in the middle of his evidence, consult with counsel.

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M.R.

Mr. Chairman: I think that that was a rule that we established at the very start. That if you thought we were asking unfair questions, it was up to you to raise the question with the chairman but not with the witness himself or not directly ~~and~~ ^{As} I say, we have been - it's difficult, in that in some ways it does become a court, but I would remind everybody that we are not a court. It's only an inquiry that we are trying to conduct here and nobody is on trial.

Mr. Genest: Well, that is right. And in court, of course, a witness couldn't consult his counsel.

Mr. Chairman: No, that is right.

Mr. Genest: But I always thought that in hearings of this kind he could. And I'd like that clarified, if I might. I may not ever avail myself of it but I was ~~as~~ concerned that you might, three weeks from now, say, "Well, I made a ruling three weeks ago."

Mr. Chairman: That could very well happen. I thought I had made that ruling at the start and I thought that was the committee's understanding. Now, have any of the ~~xxxx~~ committee members any comments to make on it? Mr. Deans.

Mr. Deans: The only comment that I would make was that I can clearly recall at the beginning of the sessions that it was pointed out that the counsel should be able to raise with the chair any point that they felt was either unreasonable or out of line in terms of the questioning that was asked, ~~but~~ ^{that} ~~whether~~ ^{that} the questions were asked of the witness and that the witness ~~was~~ was supposed to be answering those of his own ~~a~~ volition and recollection, and ~~not to~~ ^{not to} have available to him, at his elbow, the counsel's ~~advise~~ ^{advise} as to whether those points had been covered previously or not.

~~And~~ I might say that I was the one who raised it with you because I can't help, since I sit and watch both counsel and witness almost ~~xxxx~~ all of the time, can't help but note the counsel telling the witness that he answered that before and therefore, ~~if~~ ^{if} not in those words, certainly similar words, and

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M.R.

(Mr. Deans)

that's why I was prompted to raise it with you. It's unusual in this hearing.

Mr. Chairman: Any other ~~←~~

Mr. Walker: Mr. Chairman, I don't really know the procedure of a hearing as referred to by Mr. Genest, relative to this very aspect, but there was a precedent in our own committee hearing when, one or two weeks ago, the committee hearings were adjourned for five or ten minutes while Mr. Smith consulted with his counsel and then came back in at that time to make some form of statement or some form of answer to questions put by Mr. Shibley.

Mr. Chairman: That is quite right, Mr. Walker.

Any other comments?

Mr. Shibley, have you any comment on it?

Mr. Shibley: I just think it all turns upon what is meant by seeking advice of counsel. I think that part of the difficulty of counsel being ^{the} witness's side is that

~~the loss of the spontaneity of the~~

H-877 to follow

July 3/73
3:25-3:30 pm
PLG

(Mr. Shibley)

~~part of the difficulty of council being at witnesses' side is~~
~~that~~ we lose some of the spontaneity of the exchange between the person posing the question and the response of the witness. If council ^{well} sitting beside the witness recognizes that the question is a bit hazardous, or in some way ~~causes~~ causes his client difficulty, and interjects, then the whole effect of the ~~ex~~ cross-examination is wasted. On the other hand, if, from time to time, ~~and~~ these should be really extraordinary events, ~~the~~ the witness is in difficulty in the sense that he says, "I can't remember but if I had the benefit of looking at the minutes or discussing that with Mr. So and So who drew the document, I could better assist the committee," that is a different circumstance and I ~~think~~ ~~can~~ could well understand the willingness of the committee to permit it. I think the hazard really emanates from the juxtaposition of council ^{well} ~~and~~ ~~it~~ with the witness, ~~and~~ ~~in~~ in the past we have not had the problem when council ^{well} sat to the rear of the witness ^{had} and been available for the witness to turn to him when he is in the kind of difficulty to which I refer, whereas in the circumstances of council ^{well} sitting right next to him, council ^{well} from time to time, and it is the temptation of every lawyer, every trial lawyer, ~~and~~ ~~to~~ to interject, run interference ~~for~~, etc., ~~and~~ and I am not saying this to suggest that what Mr. Eberle has been doing amounts to this, or that he -- I have known Mr. Eberle for many years and he holds a very high ^{esteem} ~~position~~ in my mind. I think, though, it would be preferable if the same physical ~~arrangement~~ arrangement were established. If Mr. Cronyn needs the kind of help, then he can turn to Mr. Eberle and ask for it.

Mr. Walker: Well, Mr. Chairman, I wonder if it is not really a question as to the fine line between coaching and advising, ~~and~~ I suppose we have to rely on the ethics of the individual council ^{well}. I am not really sure we should be throwing into question any ethics at this point in time.

Mr. Chairman: I think in regard to the point Mr. Genest made, Mr. Shibley has helped me ~~and~~ I think it is a case

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PLC

(Mr. Chairman)

that we wouldn't resort to counting ^{rule} without the consent of the committee. In other words, it is up to you to raise your objections and then the committee would decide ^{rule} that is a reasonable point in which we can grant council's wish, but when we are so close together there the committee doesn't have an opportunity to insert its own views on the matter. I am not going to ask you to move now, unless the committee so ^{rule}, but I would just ask you to make your interjections to the Chair, rather than to the witness himself. Mr. Renwick.

Mr. Renwick: Mr. Chairman, the next questions really are somewhat miscellaneous and don't relate to the time problem to which I have been referring up until the present time. I want to just clear out a little bit of the underbrush to make it clear in my own mind. Tell me Mr. Cronyn, could it be that there was more than one conversation or communication between you and Mr. Fleck about the problems that Ellis-Don had had with the Hydro contract?

Mr. Cronyn: Well, I don't recollect any other conversations which were directly in line with this. I can't say for sure, but I certainly don't recollect any, except the one that Mr. Smith brought up in his latest testimony which I must say I had completely forgotten about. That was the reference to the figures.

Mr. Renwick: Mr. Cronyn, could there have been, instead of one telephone call, which has become known as the famous one, could there have been two telephone calls to ~~Mr. Smith?~~

Mr. Cronyn: No, sir there were not two telephone calls to Mr. Smith.

Mr. Renwick: Could there be any confusion in the minds of the committee about ~~the meeting in the fall~~ the communication in the fall of 1972, the "I told you so" meeting, which I have referred to as 4-B. ~~(a meeting held in the fall of 1972)~~ Tape H 878 follows

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3.30 to 3.35 pm
fvk

(Mr. Renwick)

~~_____~~ Could there be any likelihood that, at that time, there was a communication between you and Mr. Smith about any discussion that you had had with Mr. Fleck?

Mr. Cronyn: I don't think ~~that~~ that's possible, sir.

Mr. Renwick: May I go to another matter, Mr. Cronyn, I'm going ~~to~~ to refer to pages 676-1, 676-2 and 679-1-2.

Mr. Shibley: Mr. Renwick, Hansard has asked that when you ~~make~~ reference Hansard to different volumes that the date be mentioned ^{IN THE COURSE} ~~of~~ of your questions.

Mr. Renwick: Which is June 21 Hansard of the morning session.

Mr. Shibley: Thank you.

Mr. Cronyn: What was the first page, sir?

Mr. Renwick: Page 676-1 and 676-2 and then 679-1-2.

Mr. Cronyn: I presume we're going to come to those.

Mr. Renwick: Yes, they all relate to a single point I want to make by way of question to you.

About a third of the way down on page 676-1 of June 21:

"Mr. Shibley: Was there any mention made as to why he thought Canada Square was ~~being~~ being given the inside track?

"Mr. Cronyn: Nothing ~~but~~ but ^{hear} ~~was~~ say.

"Mr. Shibley: Well what was the ^{hear} ~~was~~ say?

"Mr. Cronyn: Well, the ^{hear} ~~was~~ was that because the contract ^{or} ~~with~~ Canada Square, Mr. Moog, was a friend of Mr. Davis he was therefore being given the inside track, which is complete ^{hear} ~~was~~ say.

"Mr. Shibley: So that it was part of your discussion in the spring of 1972 that Mr. Moog was a friend of Premier ~~David~~ Davis?

"Mr. Cronyn: Yes."

Then, on page 676-2, ~~was there the top of the page~~ No at the middle of the ~~page~~ page:

"Mr. Shibley: Did you make any comment to Mr. Smith?

^x Mr. Cronyn: No.

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fvk

"Mr. Shibley: ~~As~~ to the possible effects of the relationship or friendship between the Premier and Mr. Moog ~~is~~ regarding the letting of the contract?

"Mr. Cronyn: I guess I ~~probably~~ probably said that I believed it had absolutely nothing to do with it, no bearing on it at all and I think that's probably why I said you should go and talk to Mr. Gathercole or Mr. Gordon."

That all took place at the meeting in the spring of 1972. Then, if I ~~if~~ could turn to Page 679-1 at the bottom of the ~~the~~ page and following over to the top of page 679-2 of June 21, referring to the substance of the "famous" telephone call.

"Mr. Cronyn: The essentials were that he should be prepared for a phone call so he knew what he was going to say to them. And I think his only question on advice was: [✓]What do you think I should do? ² And my advice to him was to simply, [✓]if he was unhappy as I thought he was about the treatment that he got in tendering to Hydro, then he should simply tell the press the facts of the case and to stay ^{away} ~~from~~ from conjecture or ^{her} ~~her~~ ^{say} ~~say~~. And that was the limits of my advice and the limits of the conversation. I left it up to him."

^{My} ~~My~~ question, Mr. Cronyn is, was the ^{her} ~~her~~ ^{say} ~~say~~ to which you advised Mr. Smith to stay away a reference ~~that he was not to make~~ that it would be wise for him not to make any reference in any communication that he had with the press to any reputed friendship or ~~relationship~~ relationship between Mr. Moog and Mr. Davis?

Mr. Cronyn: I think, in my evidence later on, I pointed out in answer - I think it was ^{to} ~~your~~ ^{to Mr. Bullbrook's} question - that the conjecture and ^{her} ~~her~~ ^{say} ~~say~~ applied to a ~~the~~ number of things, one that he had the inside track, two, for instance, the story that they were celebrating because they already had the deal. ~~relationship~~

(Tape H-879 follows)

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3.35-3.40 p.m.
E.M.

H-879-1

(Mr. Cronyn)

~~inside track, but for instance, the story that they were~~
~~celebrating this because they already had the award back in the~~
~~spring of '72; ^{that,} ~~and~~ the friendship with the Premier.~~

Mr. Renwick: So the areas that you were - and this is my word - warning Mr. Smith about, Mr. Cronyn, ~~was~~ ^{were} that he was to stay away from any of the matters which would lead anyone to come to a conclusion that a ~~pre~~ preference was given to Canada Square because of matters related to the relationship between Mr. Moog and Mr. Davis?

Mr. Cronyn: No, I was referring to any conjecture or ~~hearsay~~ hearsay. I give you those as examples.

Mr. Renwick: But the main point, Mr. Cronyn, ~~using~~ ~~those examples~~ ^{is} that was the major focus of what your warning was to Mr. Smith?

Mr. Cronyn: I never spelled any of those out to Mr. Smith in my conversation. I simply said conjecture or hearsay. And I gave Mr. Bullbrook those as examples of what I had in mind.

Mr. Renwick: And that is what you wanted to convey to Mr. Smith?

Mr. Cronyn: What? What is your question?

Mr. Renwick: The matters that you wanted to convey to Mr. Smith, when you told him to stay away from conjecture or hearsay, was that he was to stay away from any suggestion that Canada Square had the inside track, that there was any preferential treatment to Canada Square or that there was any bearing of any reputed or alleged ~~friendship~~ ^{relationship} or relationship between Mr. Moog and Mr. Davis?

Mr. Cronyn: Well, I don't think I specifically thought that out; I simply was giving ^(am) a general piece of advice, I guess, if the press was approaching him, to stick to facts and

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P.G.

(Mr. Cronyn)

not talk about conjecture or hearsay, because the press

Mr. Renwick: I want to try once more -- the message, as Marshall McLuhan would say, that you were conveying to him was ~~in~~ that ^{if} if you had to say something about it, because the whole problem had rankled with you for several months, Mr. Smith, if you have to say something about it, for heaven's sake don't mention anything about the preferential treatment of Canada Square or about any relationship between Mr. Moog and Mr. Davis."

Mr. Cronyn: That was not the import of my message to him.

Mr. Renwick: Would you tell us what the ~~is~~ import of the message was when you used the expressions which are not very communicative, to stay away from conjecture or hearsay?

Mr. Cronyn: Well, it seems to me that they are ~~in~~ how do you mean they are not communicative? I have lost you.

Mr. Renwick: Well, let me try again. So far

Mr. Shibley: Excuse me, it may help on the line of questioning you ~~are~~ are on, to reference the next question on page ⁶⁷⁹ ~~678~~ Page 2, also on June 21, 1973. You left off after ~~in~~ reading to him, the next ~~same~~ sentence

"Mr. Shibley: Now, of course, at the time you placed the call to him, you had in recollection the earlier conversations you had had with Mr. Smith during 1972. Is this right?

"Mr. Cronyn: Correct.

"Mr. Shibley: And you were alert to the ~~in~~ circumstances that he felt he had been getting the run-around?

"Mr. Cronyn: That's right. Prob-Canada-~~is~~-Square had-the-inside-track.

879
H 799-3

July 3/73
3:35-3:40 p.m.
PLG

(Mr. Shibley)

"Mr. Shibley: That Canada Square had had the inside track?

"Mr. Cronyn: That's right.

"Mr. Shibley: And all of these things were in your mind as of the time you placed the call to him?

"Mr. Cronyn: Right."

Mr. Cronyn: Mr. Chairman, would you read the next few lines, too, please.

Mr. Shibley: "Mr. Shibley: Yes. But the advice you gave him ^{say/} you ~~say~~, was to tell the press the facts and ~~stay~~ stay away from conjecture or hearsay.

"Mr. Cronyn: I said if he is unhappy, as I think he is, about the treatment he received from Hydro, then he should tell the press and tell them the facts.

"Mr. Shibley: Mr. Cronyn, when you placed that call, did you place it on your own initiative or were you asked to place the call or instructed to place the call by anyone else?

"Mr. Cronyn: I placed it on my own initiative as a director of his company and a friend of his."

Now those questions and answers, Mr. Renwick, may assist you respecting the line of questioning you are on.

Mr. Renwick: Thank you, Mr. Shibley. Let me try to express what has come through to me so far. ~~Mr. Smith's problem was that all he was doing dealing.~~

Tape H 790 follows

July 3/73
3:40 - 3:45 pm.
M.S.

(Mr. Renwick)

~~no so far that~~ Mr. Smith's problem was that all he was dealing in was ~~hearsay~~ hearsay and conjecture. Namely, that he hadn't got a fair deal, that he had put in a proposal, that he didn't know why he hadn't been given a better opportunity, that when he made the arrangements with Ernie Jackson to see Mr. Gathercole, he got the brush-off, which I think is a fair way of stating it, That all of the matters that Mr. Smith could tell the press could, so far as the inferences to be drawn from them were concerned, be matters of conjecture or hearsay. And I take it, from the questions which I have asked you and with the additional refreshing of my memory of the subsequent questions to which Mr. Shibley has just referred, that you were, in fact, telling Mr. Smith, "Don't get involved in the questions of the Davis-Moog relationship, with the letting of the Hydro contract."

Mr. Cronyn: No, I was not, sir. I was giving him advice that I had said I was giving him. There were a great many facts that he could ~~not~~ speak about - the time given for the proposal, the lack of plans, the lack of response, and a number of those things which we outlined with Mr. Shibley, which were all fact as far as Don Smith was concerned.

Mr. Renwick: Now, again, Mr. Cronyn, when you raised with Mr. Fleck the various points about the unhappiness of Mr. Smith, with respect to his proposal, did you mention to Mr. Fleck any of Mr. Smith's concern that Canada Square had received a preference; that Canada Square had had advance knowledge of the plans? That the matter was related to, in Mr. Smith's mind, rightly or wrongly, the friendship between Mr. Moog and Mr. Davis?

Mr. Cronyn: I have already testified on the information that I passed to Mr. Fleck, which had to do with the facts of the situation.

Mr. Renwick: You preferred to the salient facts? Were they salient facts in your mind that led you to raise with Mr. Fleck

July 3/73
2:40 - 3:45 pm.
M.S.

(Mr. Renwick)

Anything about Canada Square, Mr. Davis, Mr. Moog?

Mr. Cronyn: None, sir. I was dealing with the mechanics of how the proposal was handled.

Mr. Renwick: Now, the other point which has puzzled me, Mr. Cronyn, is that it has come perfectly clearly through to me, in the evidence of Mr. Smith, that all that he was saying was, "I didn't get a fair chance at the Hydro job." He wasn't asking anybody to do him any favour. All he wanted to do was to have a fair go at the contract. Now, I make that as a statement of conclusion that has come through to me, That in any discussion with you, he was not asking you to exert any influence on his behalf to orient the contract to him, but was simply asking you, as a director of his company, as the person dealing with Task Force Hydro, and as ~~a person~~ the chairman of the Committee on Government Productivity, asking you "Would you please see what can be done to make certain that I, Mr. Smith, and other developers, get a fair crack at this job?"

~~Now, the other point which has puzzled me, Mr. Cronyn, is that it has come perfectly clearly through to me, in the evidence of Mr. Smith, that all that he was saying was, "I didn't get a fair chance at the Hydro job." He wasn't asking anybody to do him any favour. All he wanted to do was to have a fair go at the contract. Now, I make that as a statement of conclusion that has come through to me, That in any discussion with you, he was not asking you to exert any influence on his behalf to orient the contract to him, but was simply asking you, as a director of his company, as the person dealing with Task Force Hydro, and as a person the chairman of the Committee on Government Productivity, asking you "Would you please see what can be done to make certain that I, Mr. Smith, and other developers, get a fair crack at this job?"~~

Tape H 881 follows

July 3/73
3.45 to 3.50 pm
fvk

(Mr. Renwick)

~~My~~ My question to you is why did you not ~~proceeds~~ ^{proceed} to that very legitimate request and do something about it?

Mr. Cronyn: Because I had explained to Mr. Smith in the beginning that because of my job with the government, there was absolutely nothing I could do to be of any assistance to him, and, rightly or wrongly, I felt that I couldn't intervene in any way at all.

Mr. Renwick: Thank you. Mr. Chairman, I don't have any other questions.

Mr. Chairman: Mr. Deans.

Mr. Brian Renwick: Thank you for your patience, Mr. Chairman and Mr. Cronyn.

Mr. Brian Chairman: It's the chairman's job to be patient, Mr. Renwick. It's the chairman's job to be patient.

Mr. Deans: Yes, it certainly is. I would like to ask you, Mr. Cronyn, to ~~have~~ begin with, if you ~~were~~ would be able to identify for us in which ~~newspaper~~ newspaper you read about the questions asked by Mr. Nixon?

Mr. Cronyn: I couldn't begin to, sir.

Mr. Deans: You couldn't?

Mr. Cronyn: No, I don't know which. I read from time to time ~~the~~ the ~~the~~ Globe and Mail, the ~~London~~ Free Press, ~~the~~ the Sun, The Star.

Mr. Deans: Okay. It would be in one of those four newspapers?

Mr. Cronyn: I would think so, to the best of my knowledge.

Mr. Deans: You do recall that you were in Toronto at that time on the first, second, third in that period of time in December?

Mr. Cronyn: No, I don't know that I can recall that, that I was in Toronto.

Mr. Deans: But you would have a record of where you were?

Mr. Cronyn: I would have had a record of where I was.

Mr. Deans: You wouldn't have it now?

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3.45 to 3.50 pm
fvk

Mr. Cronyn: Not that. That was last year's calendar.

Mr. Deans: This is just for my benefit. I want to just try and understand something. How long have you been a director of Ellis-Don?

Mr. Cronyn: I'm afraid I can't answer that one. I would say five or six years.

Mr. Deans: It doesn't matter, for a number of years.

Mr. Cronyn: Yes, sir.

Mr. Deans: Five or six years. During that time would

~~Mr. Cronyn: During that time~~ would I be correct in assuming that Mr. Smith did, from time to time, talk to you about contracts that he was entering into and difficulties that the company was having?

Mr. Cronyn: At the ~~directors'~~ directors' meetings there usually was a review of the jobs ^{that were} under way.

Mr. Deans: How about outside of directors' meetings? Was it a practice of Mr. Smith's to drop by in the summer time, for example, or to communicate with you by letter about contracts?

Mr. Cronyn: No, & occasionally he would say to me: "We've got a very good contract with Northern Electric"- you name it.

Mr. Deans: Did he ever discuss any of the company's difficulties in getting contracts with you personally?

Mr. Cronyn: I don't know that I can identify any ~~specific~~ specific situation other than the discussion about the tire plant in Nova Scotia or New Brunswick. That was one that ~~ex~~ caused a good deal of concern.

Mr. Deans: Was that concern among the ~~dir~~ directors generally?

Mr. Cronyn: Among the directors generally.

Mr. Deans: Did you not think it unusual when Mr. Smith came to you and complaining ^{ed} so vigorously about ~~that~~ what he considered to be mistreatment at the hands of Hydro?

Mr. Cronyn: No, I did not, sir.

Mr. Deans: Even though he normally didn't do those things?

Mr. Cronyn: I'm not sure that there had been a situation comparable to it. It's the first time to my & knowledge that he

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3.45 to 3.50 pm
fvk

(Mr. Cronyn)

ever made a proposal as a developer, for instance. The others were all fixed contract bids which you either get or you don't get. That's fairly clear cut, if you're the low & bidder you're —

Mr. Deans: You weren't, though, in the habit of having him call you up or drop you a note prior to that about any other contracts?

Mr. Cronyn: No, sir. I can remember one, ^{that was} the Bank of Nova Scotia where he felt he was the low bid and didn't get the job. It was not a very regular event. There were some times when he drew to the directors, or to my ~~xxx~~ attention when he saw me.

Mr. Deans: But the fact that he brought this to your attention was an unusual occurrence ~~in~~ over the five years that you had been a director? ~~Was it~~ ^{was} unusual for him to approach you on a number of occasions about a particular situation and bring it to your attention?

Mr. Cronyn: Yes, I can say it was ~~un~~ unreasonable but as I pointed out this ^{was} the first time he ever made a developer proposal.

Mr. Deans: Yes, I understand that. In the matter of the letter of July 14, did Mr. Smith ever ask you about the letter at any point?

Mr. Cronyn: Did he ever ask me?

Mr. Deans: Did he ever speak to you during that summer about the fact that he had written you a letter asking you for advice and that you had never given any?

Mr. Cronyn: No, he did not, sir.

(Tape H 882 follows)

July 3, 1973
3:50 - 3:55 p.m.
M.R.

(Mr. Deans)

... ~~that he had written you a letter and that you had not even answered it.~~ the fact that he had written you a letter and that you had not even answered it?

~~Mr. Cronyn: Yes, I had.~~

Mr. Deans: Never, even in conversation about the Hydro project, ask if you had received the letter?

Mr. Cronyn: Not to my recollection.

Mr. Deans: There is something I don't quite understand and perhaps you can explain it to me. ~~For~~ At that time, when he was seeking your advice as to whether or not he should proceed along the lines ~~of~~ as outlined in his letter to you, whether he should just drop the whole thing as suggested to him by Mr. Barnicke or whether he should proceed with it, you chose to ignore that and to leave it ~~alone~~ just to let it go?

Mr. Cronyn: I left that to his decision.

Mr. Deans: Right. Why, then, in December did you feel it necessary to phone Mr. Smith and to talk to him about what his response should or shouldn't be to questions placed to him by the Globe and Mail?

Mr. Cronyn: Well, I think as I ~~pointed~~ ^{pointed} out before, this phone call was triggered by the questions tabled in the House and by the rumour around that the Globe and Mail was making inquiries.

Mr. Deans: I want to come back to the rumour in a moment but I'm curious. You did say that it was because you were the director of the company and a friend of Mr. Smith's, that at that point you felt it necessary to call him up and suggest to him that he should stick to the facts if he were to be asked any questions by the Globe and Mail. Yet, when he sought your advice on the matter, you chose simply to ignore him?

July 3, 1973
3.50 - 3.55 p.m.
M.R.

Mr. Cronyn: Yes, but you will remember the call in December was after the contract had been let and signed.

Mr. Deans: Well, I understand that, but then who could you have been protecting by suggesting to Mr. Smith that he ought to keep his mouth shut about other than those things that he knew that were factual and ~~low~~

Mr. Cronyn: I never said anything about keeping his mouth shut.

Mr. Deans: Well, all right; that he ought not to discuss any matter other than those matters which were a matter of fact?

Mr. Cronyn: I simply suggested that to him, Mr. Deans.

Mr. Deans: Wasn't that the suggestion he was looking for in July, when he wrote you the letter?

Wasn't he looking for that kind of advice in July?

Mr. Cronyn: No, I don't see the relationship between ~~low~~

Mr. Deans: Whether or not he should proceed along the lines of ~~that~~ discussing the matter openly and proceed further with his proposition with Hydro, or whether he should accede to Mr. Barnicke's suggestion that it ~~may~~ may be, perhaps, not in his best interests?

Mr. Cronyn: No, I'm afraid I don't see the relation between the two phone ~~calls~~ calls.

Mr. Deans: Well, what is it about your friendship in December and your directorship in December that prompted you to go to Mr. Smith, that wasn't there in July?

You were a friend of Mr. Smith in July and you were also a director of the company ~~and~~ ^{and} the interests of the company, not only that company, but the interests of other development ~~and~~ companies who were also involved in the Hydro project, ~~was~~ ^{were} very much in question at that point, according to Mr. Smith's discussions with you. Why would you have felt that your ~~friendship~~ ^{of} friendship in December and your directorship was ~~more~~ ^{of}

July 3/73
3.50 to 3.55 pm
DT

Mr. Deans

importance that you would call him then on a bit of hearsay that maybe they were going to call him up and talk to him?

Mr. Cronyn: Because in August the contract had not yet been let.

Mr. Deans: How did you ~~know~~ know that?

Mr. Cronyn: There had been no announcement.

Mr. Deans: But there hadn't been an announcement on the first of November either, so how did you know in August, the end of August, or in any part of August ~~and~~

Mr. Cronyn: Well, ~~at~~ ^{at} the end of August, of course, it came out in the newspapers which has been read into the testimony.

Mr. Deans: Were you keeping close tabs on whether or not the Hydro contract had been let?

Mr. Cronyn: No, I was not keeping close tabs on it.

Mr. Deans: Can you think back to the time when you first heard that the Globe and Mail were perhaps looking into the matter of the Hydro contract? ~~and~~ I would like to know if you can recall, if you can think back to the conversations you were having at that point, ~~and~~ ^(before the) it is quite important to ask, where were you at that point that you would have received information that the Globe and Mail was investigating Ontario Hydro?

Mr. Cronyn: I didn't receive any information. I simply heard a rumour around ~~and~~

Mr. Deans: But a rumour comes from some place and that's information.

Mr. Cronyn: But as I have said before, I have no way of identifying who I heard the rumour from or on what day I heard it or how I heard it.

Mr. Deans: In relaying the message to Mr. K Smith that there was a rumour that the Globe and Mail might be looking into the Hydro contract, were you concerned that Mr. Smith might embarrass himself?

July 3rd,
of /~~July~~/28th, 1973

3.55 - 4 pm
AA

H 883 - 1

~~(1.5)~~

~~this whole thing and the whole thing~~

~~look at the whole thing and the whole thing~~

~~Smith would have been able to~~

Mr. Cronyn: No, I don't ^{know} that I was concerned that he would embarrass himself. I just felt that anybody who is going to be called by the press is better prepared if they are aware that it is going to happen than if it just comes out of the ~~cold~~ cold. It would give Mr. Smith a little chance to sort out what, if anything, he was going to say. Now, as you know, he wasn't called for months and months and months, so ~~you~~

Mr. Deans: When you say you weren't afraid of what he might say, it must have crossed your mind, surely, at the time you heard the rumour, that you had better get in touch with Smith.[?]

Mr. Cronyn: Well, as I said before, there were two things that triggered my thought, one that Mr. Nixon tabled some questions in the House, which involved, who were the other developers? And also, this rumour that I heard about the investigation. Now, as a director of this company, as a friend, I see nothing extraordinary in ~~the whole thing~~ and saying what I did ~~to him~~.

Mr. Deans: It ~~just~~ seems extraordinary to me that at that point your concern for his welfare was such that you would phone him when at other points you didn't seem to care too much, that you were more concerned about staying away from the project.

Mr. Cronyn: It wasn't that I didn't care. There was nothing I could do to help him before because of my position with the government.

Mr. Deans: ~~There, but~~ let's assume that Mr. Renwick was correct in the question that he asked you or the statement that he made, in fact, that what Mr. Smith was asking for wasn't help, but rather that the entire matter be opened up

July 3rd, 1973

3.55 - 4 pm

H 883 - 2

AA

(Mr. Deans)

And other contractors be permitted to enter into it on an equal footing. Do you agree that that seemed to be Mr. Smith's primary concern?

Mr. Cronyn: I am not sure what his primary concern was.

Mr. Deans: Did you never ask him why he was asking you, since you had indicated that there was nothing you could do about it?

Mr. Cronyn: Right from the beginning, I told him that there was nothing I could do to help him in any way. His first request was ~~whether~~ did I know whether the building was going to go ahead or not. I said I didn't know. There was no way that I ~~could~~ find out ^{and} no way that I could help him.

Mr. Deans: ~~From the conversations you had with him and what you can recall of the conversations, do you think Mr. Smith was concerned about opening up the contract to all of the developers or was he asking you to intercede on his behalf?~~

Mr. Cronyn: No, I don't think he was asking me to intercede on his ~~behalf~~ behalf.

Mr. Deans: You think then that he was concerned that the contract appeared to be being handled ~~inappropriately~~ inappropriately and that other contractors weren't being given the opportunity?

Mr. Cronyn: Yes, I think he felt that the calling for proposals was being handled inappropriately.

Mr. Deans: Didn't you feel that it was a part of your responsibility as a director of his company knowing that you had access to government circles to bring that to the attention of government?

Mr. Cronyn: Give me that question again please.

3.55 - 4 pm

H 883 - 3

Mr. Deans: Yes. Didn't you feel it part of your responsibility, your public responsibility, and also since you had ~~had~~ had the information brought to you, not hearsay, not by a disreputable source, but by someone whom you trusted, that it was a part of your responsibility, knowing your close connection with government, to bring it to their attention that the Hydro project was not being handled in the fairest possible way, prior to the letting of the contract?

Mr. Deans: But how can you exercise public responsibility in making sure that fairness and equity is involved in the letting of contracts, if you are not going to inform the people who have responsibility for it until after they've done it?

Mr. Deans: When you spoke with the ~~Prime~~ Premier - you spoke to the Premier prior to ~~your~~ speaking to Mr. Fleck, am I correct?

Mr. Deans: When you spoke to the Premier did you tell
the Premier that you had ~~not~~ ^{been} informed by the Government that this
~~was the case~~ that you had been informed by your friends that
~~that was the matter of the Hydro contract was in~~

H 884 - 1 follows

July 3/73
4 - 4:05 pm
C.B.

(Mr. Deans)

Did you tell the Premier ^{that} you had had it brought to your attention that this contract, the matter of the Hydro contract, was in fact, something which was being disputed?

Mr. Cronyn: No, I did not. I think I've covered that in my evidence quite thoroughly.

Mr. Deans: What did you talk to the Premier about?

Mr. Cronyn: It is all in my evidence.

Mr. Deans: Well, tell me again. What did you talk to the Premier about?

Mr. Cronyn: Can we get the evidence out?

Mr. Deans: Yes, sure, I'm prepared to accept it second-hand, if you want to tell me just from your recollection.

Mr. Cronyn: I'd prefer not to.

Mr. Chairman: This might be an appropriate time to take a break; you've been on the stand for over an hour and a half.

H 885 to follow

H-885-1

Mr. Chairman: Ladies and gentlemen, I call the meeting back to order. There are two items that I would like to discuss, and I hope it will be briefly, before we proceed with Mr. Deans again.

We originally spoke of the possibility of meeting this evening. I have been trying to gather a consensus and I'm afraid it is split about evenly that ~~we~~ half would like to meet and half would not like to meet, or prefer not to meet. I am going to suggest that we should not meet. Now does anybody want to say otherwise than that?

Mr. Bullbrook: I have been a great advocate of meeting in the evening. The basic difficulty is for those of us who are from far away that it is difficult enough to get here, as evidenced by this morning, and really it seems like an awful waste of our being away from our other obligations in life to let the time go ~~by~~ by. I voice that to you because the evening ^{here} is therefore spent comparatively doing nothing when we could be at least, I hope, perhaps in rationalizing it, ~~we could be~~ occupying hours that have to be occupied anyway.

Mr. Chairman: We are agreeing that we have other tasks to do and the other tasks can only be done in the daytime hours.

Mr. Allan: Mr. Chairman, could we settle by agreeing to meet tomorrow night and Thursday night?

Mr. Chairman: Tomorrow night and Thursday night, is that agreeable with most of us?

Mr. Renwick: My feeling was simply out of the real ~~hope~~ ^{hope} of a dilemma. I was hoping if we pushed this week even at some expense to our inconvenience,

Mr. Walker: I quite agree, Mr. Chairman.

Mr. Renwick: ~~We~~ ^{What if} we got through until Thursday night we may be able to get some view of where the ~~man~~ hell we are going. If we just go along from day to day I am beginning to wonder when

Mr. Chairman: I said my ~~job~~ ^{job} is to be ~~in~~ ⁱⁿ patient, Mr. Renwick, I didn't say it was an easy job. We all want to rush

July 3/73
4:15 - 4:20 pm
CA

H-885-2

(Mr/Chairman)

along, but when it comes to our turn to ask the questions we want to have the right, as we do have the right, to make those questions as searching and as long as we wish to.

Mr. Bullbrook: Mr. Chairman, let's be brutally frank about it. The length of our questioning hasn't elasticized this deliberation at all. If we hadn't got into inconsistencies~~and~~ in evidence, the recalling of witnesses, we'd be well in advance of our present position. So let's not chastise ourselves about this.

Mr. Chairman: I know. But some of the inconsistencies, ^{Q.S.} and there have been inconsistencies~~as~~, we all realize it^{Q.S.}, I think many of them are explainable inconsistencies over trying to recall things that are long since past, and dates, and getting them in the right order. So I don't want to make excuse for the ~~inconsistencies~~ inconsistencies, but at the same time I am not ~~surprised~~ surprised that we have run into some of them.

Mr. Deans: Mr. Chairman, could I say something about evening sittings? In ~~xxxxx~~ order to sit for 2½ hours, and that is how long we are likely to sit in the evening, 2½ or three hours at the most, I think that the attention span

H-886-1 follows



July 3, 1973
4.20-4.25 p.m.
M.F.

H - 886 - 1

Deans
(Mr. Deans)

~~and the ability~~ and the ability of the members to give their full attention to the whole proceeding is somewhat inhibited. I do think, and I have felt it all along, that for the majority of people an eight hour day is sufficient, and I say this, ~~but~~ I am prepared to sit next week and the week after if I have to in order to work normal human hours, but I think that sitting all morning, all afternoon and all evening, without an opportunity to continue any constituency work or to do any other things, is kind of ridiculous.

We could sit two extra days and catch up what we would have made up for in the course of a whole week's evening sittings, and I think that if ~~we were~~ shortening the matter by two days is all we are after then I don't think it is worth the effort.

Mr. Chairman: I would like to suggest again that we don't sit tonight but that we do try to sit on Wednesday and Thursday night of this week.

Mr. Allan: Agreed

Mr. Walker: I would rather sit tonight than Thursday night, Mr. Chairman, but however ~~=====~~

Mr. Gaunt: Me too.

Mr. Walker: You know, we make a number of ~~arr~~ arrangements and we had established last week - I wrote on my calendar - that we would be sitting tonight, tomorrow night and Thursday night. I do hope we can push on, there is another committee just waiting at the doorstep here to get rolling just as soon as this committee wraps up and that is the economic and cultural nationalism committee. There are four members on this committee who will then have to go into the sessions there, ~~so~~ *for the rest of the summer, so* we are here all summer but we don't want to necessarily devote it all to Hydrc if we can get away with it.

July 3, 1973
4.20-4.25 p.m.
M.F.

H - 886 - 2

Mr. Chairman: Well I am also mindful of our counsel who, for reasons beyond his control, worked on this matter all day yesterday until 12 o'clock last night and again early this morning, because of some developments that took place so he didn't plan to do that but he had to.

So with that in mind, today is Tuesday, so we will try to meet Wednesday and Thursday, all day Wednesday and Thursday.

Mr. W. Newman: Mr. Chairman, in order to follow through, if we are going to ~~start~~ sit the next week can we set the nights now, because many of us who are not so far away take commitments in our ridings on those nights, and I would like to know ^{for} _{SA} the following weeks are we going to sit Monday, Tuesday, Wednesday and Thursday nights?

Mr. Chairman: That was my thought.

Mr. Walker: We are sitting Monday, Tuesday and Wednesday nights of next week? Monday is it?

MR. Chairman: I ^{would hope to be here} ~~will be here~~ Monday.

Mr. Walker: We can take that as sure now? There will be no change in that?

Mr. Allan: Mr. Chairman, in ~~looking~~ looking into that, perhaps you will find sometimes you can sit afternoon and evening, but it is very difficult to carry out one's responsibilities as far as the riding is concerned and to have no time at all, but why not leave that until later in the week?


Mr. Chairman: Well I have been asked on this side so that they could plan. Let's not meet Monday morning then, will that keep you happy Mr. Allan?

Mr. Allan: Yes, I would be happy.

Mr. Chairman: All right, that will give you Monday morning to do a week's work in.

Mr. Renwick: When are we going to meet?

Mr. Chairman: Monday afternoon and evening and three



July 3, 1973
4.20-4.25 p.m.
M.F.

H 886 .3

(Mr. Chairman)

Times Tuesday, Wednesday and Thursday.

Mr. Renwick: Well I won't be here on Wednesday and Mr. Hodgson of York North won't be here on Wednesday because we have a select committee on corporation law all that day working on a report.

Mr. Chairman: Well if we have a quorum I would like to carry on.

Mr. Gaunt: Well may I suggest, Mr. Chairman, that next week if we are sitting Monday afternoon, Monday evening, Tuesday morning, Tuesday afternoon, Tuesday evening, that we have either Wednesday night off or Thursday night off, which would perhaps be better because we could go home on that night.

Mr. Chairman: Now that is one of the things, certainly I think it would be most unfair to try to keep a witness in for three periods in the day. I am assuming that we will not be doing one witness for three periods. Counsel is expendable.

Mr. Cronyn: He is being paid.

Mr. Chairman: So that we have then in any event, Wednesday all day and Thursday all day. Now the following week we will have Monday afternoon, Monday evening, and let's see how it is then but ~~would~~ ^{let's} try to keep all three periods open if you can.

Mr. Gaunt: So we will play it by rule, now?

July 3, 1973
4.25-5.30p.m.
B.A.

H-887-1

Mr. Chairman: That's about all we can do.

I'd like to be definite on it, but not knowing what witnesses may be here or what commitments some of you have, maybe I can take a summary, as I did ~~was~~ once before, to see what periods are available.

Now, the other point is the matter of calling Mr. Barnicke as a possible witness. To my mind, I have been talking about it all the way along, you mentioned a man's name, or a person's ~~name~~ name, and the next thing, is it necessary to call him as a witness? To my mind, I don't think anything can be gained by calling Mr. Barnicke, but there is, perhaps, some confusion in the minds of some, wherein there has been a reference to this, between Mr. Cronyn and ~~Mr.~~ Mr. Barnicke. Now, is it the thought that ~~anyone~~ anyone believes Mr. Barnicke should be called?

Mr. Bullbrook: Yes, I believe he should be called.

Mr. Chairman: All right, any other ~~one~~,

Mr. Bullbrook: I do so on the basis that we are confronted with two things that we must make ^a decisions on; the representation in the Globe and Mail article referring to someone, and I use the word in quotes, "threatening" because it is the word used in the article. "A source" - I don't recall the words - "close to cabinet" I think, in the article; the other one is "close to the Premier's office". We have to make a decision as to whether ~~if~~ there is any substance to that. I think we have an obligation to call Mr. Barnicke to see if he said those words referred to in the letter of July 14th.

Mr. Chairman: All right, any other expressions of opinion?

Mr. R. G. Hodgson: Mr. Chairman, I think it has been established that Mr. Barnicke was not the one who was quoted in the newspaper article; fairly thoroughly.

Mr. Chairman: Well, in my mind it has, but again, I don't want to pass judgement before all the evidence is in.

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H-887-2

Mr. Allan: Mr. Chairman, the simplest thing to do would be to call him.

Mr. Chairman: All right.

Mr. Allan: Surely we can be a little reasonable in our questioning for once?

Mr. Chairman: I think, Mr. Shibley, you have the consensus; and again, the Chairman ~~has~~ has been overruled but the consensus of opinion is to overrule the chairman. We call Mr. Barnicke. Now, Mr. ~~Mr.~~ Deans, we are back to you.

Mr. Deans: Thank you. I want first of all to ask you, Mr. Cronyn, if you can recall your November discussion with the Premier and tell me again, what it was that you talked to the Premier about.

Mr. Cronyn: May I refer you to 681-1?

Mr. Deans: Hm-hm?

Mr. Cronyn: Do you wish me to read it to you,

Mr. Deans?

Mr. Deans: I want to ask you exactly what, pertaining to the Hydro contract, was discussed between you and the Premier. ~~Let me be~~ ~~more specific~~ more specific; did you raise with the Premier the matter of the dissatisfaction of one of the persons bidding on the contract?

Mr. Cronyn: No, I did not, sir, and I have testified to that ~~an~~ already.

Mr. Deans: Did you raise the matter of the contract with the Premier?

Mr. Cronyn: We were not discussing the contract at all.

Mr. Deans: Did you raise the matter of the Hydro building with the Premier?

Mr. Cronyn: We were talking about the location of the Hydro ~~at~~ building.

Mr. Deans: Did you raise it with the Premier, or did he raise it with you?

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4.25-4.36p.m.

B.A.

Mr. Cronyn: No, I raised it in discussion with the Premier.

Mr. Deans: When you ~~xxx~~ raised the matter with the Premier, this was in ¹ I assume early November ² you don't have to answer that, I am assuming it; it could be any other time. When you raised ^{this} with the Premier was this the first time that you had ever discussed the matter of the Hydro building with the Premier?

Mr. Cronyn: To the best of my knowledge, it was the first and the only time I discussed the location of the Hydro building, or the Hydro building with the Premier.

Mr. Deans: Did you ever, then, in the discussion you had with Mr. Fleck, which came after you discussed the matter with the Premier - did you raise it with Mr. Fleck?

Mr. Cronyn: I raised it with Mr. ~~xxx~~ Fleck.

Mr. Deans: Was that the sole purpose of that meeting?

Mr. Cronyn: No, ¹ as I ² said, I dropped in to ~~xxx~~ see Mr. Fleck, we discussed a number of matters and that was one of the points I raised. Again, in the broader context of Hydro, of buildings, proposals from developers.

Mr. Deans: Did you express to Mr. Fleck that you had had an expression from someone that they were unhappy with the way the Hydro contract had been handled?

Mr. Cronyn: Well, my words are in the evidence; they are something along those lines.

Mr. Deans: You did express that you had heard, that you knew, that someone was unhappy about it.

Mr. Cronyn: Well, no, I named Ellis-Don.

Mr. Deans: You named Ellis-Don?

Mr. V Cronyn: Yes.

Mr. Deans: Fine. Did you expect Mr. Fleck to inform

(Tape H-888 follows)

June 28/73
4:30-4:35 pm
C.B.

(Mr. Cronyn)

~~Mr. Deans: I am not sure if I have~~

~~Mr. Deans: I am not sure if I have~~

~~Mr. Deans: I am not sure if I have~~ the Premier that you had spoken to him?

Mr. Cronyn: No, I did not, sir. As I say, we were talking about the problems of the mechanics of calling for proposals and looking to the future not the past, the contract had been let.

~~Mr. Deans: I am not sure if I have~~

May I ask the question this way? Had you at that point finalized or were you in the process of finalizing the Hydro Task Force Report?

Mr. Cronyn: No, in November Task Force Hydro's number one report was being issued. There were four subsequent to that.

Mr. Deans: Were you at that point in the process of preparing a report of the COG??

Mr. Cronyn: Number 10.

Mr. Deans: Number 10.

Mr. Cronyn: In which there is a section dealing with dispersal, decentralization and regionalization of government offices, etc.

Mr. Deans: When was the first draft of that report completed?

Mr. Cronyn: That I can't tell you. I was working on one of the drafts of that publication report in January.

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C.B.

Mr. Deans: One of the drafts, ~~Was~~ that one of the final drafts? Or was that one of the early drafts? ~~Was~~
The report ^N was tabled in December as I recall.

Mr. Cronyn: No, the report was finally released in, I think it was, March of this year.

Mr. Deans: March was it, I'm sorry.

Mr. Cronyn: Or April, perhaps April.

Mr. Deans: What stage then in the preparation was that report.

Mr. Cronyn: It was in draft form. I couldn't tell you whether it ~~was~~ was the first draft, second draft, third draft. It was ^{near} ~~at~~ the beginning, one of the early drafts.

Mr. Deans: Who else worked on that report with you?

Mr. Cronyn: Number 10?

Mr. Deans: Yes.

Mr. Cronyn: I was working with Mr. Harry Damp, I guess, at that point in time.

Mr. Deans: Had you raised with him at the time of the writing of the drafts in regard to dispersal of buildings or services throughout the province, the matter of contracts and the letting of contracts?

Mr. Cronyn: No, I don't believe so, sir. We weren't covering that in this particular report. We were just covering the principle of dispersal. ~~the~~ We had ~~some~~ nothing in our reports dealing with the detail of contracting or calling for contracts or for proposals.

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C.B.

Mr. Deans: When you talked with Mr. Fleck then you were talking about both the COGP number 10 report which was in draft form and the Task Force Hydro report?

Mr. Cronyn: Yes, we were talking on the broadest sense of government, its agencies, its boards and commissions which, of course, includes Hydro.

Mr. Deans: And you raised with him then that Mr. Smith was unhappy with the way Hydro had handled the contract?

Mr. Cronyn: Handled the proposals?

Mr. Deans: The proposals for the contract. Did that have a bearing on what you wrote in the report?

Mr. Cronyn: No, it had no bearing on what I wrote in the report because in ~~the~~ report we ~~were~~ dealing with the principle of dispersal.

Mr. Deans: My recollection is that you came down in ~~favour~~^v or, at least, qualified in favour of dispersing within *the province*.

Mr. Cronyn: Yes we have a section which calls for further government studies to look at dispersal. I think the example we used was the Ministry of Agriculture and Food.

Mr. Deans: Did you ever suggest to the government directly or indirectly that the Hydro building ought not to proceed until such time as the report was completed, since you were moving in that direction?

Mr. Cronyn: No, I did not sir.

Mr. Deans: Let me just ask you one other question going back again to your recollection in regard

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C.B.

(Mr. Deans)

to the company that you are Director of. I'm still quite unclear as to what it was that changed your mind. There was no public statement about the letting of the Hydro contract in the beginning of November. I think we have that fairly clear from the Hydro people themselves. That was said by Mr. Genest, that there was no public statement at the first of November about the letting of the contract to Randax Canada Square.

Ca Mr. Cronyn: No, there were statements in the press at the end of August, ~~that I believe~~ I believe.

Mr. Deans: That's right. Why would you then not have raised these matters with Mr. Fleck or the Premier in September?

Mr. Cronyn: Simply because the opportunity or the timing never occurred.

Mr. Deans: Did you not meet with the Premier or Mr. Fleck in September?

Mr. Cronyn: I couldn't begin to tell you whether I did nor not.

Mr. Deans: My understanding was that you met with Mr. Fleck frequently.

Mr. Cronyn: Yes. I presume I met with him sometimes in September.

Mr. Deans: In September. When the matter of Mr. Smith's letter was still fresh ⁱⁿ mind and you knew that the Hydro thing had ~~had in mind~~

~~in who was going to~~

H 889 to follow



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4.35 to 4.40 pm
DT(Mr. Deans)

~~it was still fresh in your mind and you knew that the Hydro thing~~
had been settled, so to speak, as to who was going to build it from the public statement, did that not seem an opportune time to raise it then as a matter of policy with the government, to Mr. Fleck?

Mr. Cronyn: It might have been but the whole point of discussions re Hydro, re dispersal, really didn't come up until November and that afforded the opportunity for my comments.

Mr. Chairman: Mr. Newman.

Mr. W. Newman: Mr. Chairman -- two or three small questions -- would you consider yourself a good friend of the Premier's?

Mr. Cronyn: Would I consider myself a good friend of the Premier? I would think that ~~you~~^{he} would have to answer that.

Mr. W. Newman: I beg your pardon?

Mr. Cronyn: Wouldn't he have to answer that?

Mr. W. Newman: Well, I just said do you consider yourself a good friend of the Premier's?

Mr. Cronyn: Let's call the Premier.

Mr. W. Newman: And my second question, did you try in any way, shape or form to exert any influence or pressures regarding ~~any~~ anything to do with the Hydro contract?

Mr. Cronyn: Could I have that again, please?

Mr. W. Newman: Did you try and exert any influence or pressure in any way, shape or form in regard to the Hydro contract?

Mr. Cronyn: No, sir.

Mr. W. Newman: Did ~~any~~^{anything} in your meeting with Mr. Fleck influence you to call Mr. Smith?

Mr. Cronyn: Nothing at all, sir.

Mr. Chairman: Mr. Allan ^{and then} Mr. Bullbrook has indicated he would like to put some questions but you proceed, Mr. Allan.

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DT

Mr. Allan: Mr. Chairman, I would just like to ask Mr. Cronyn if he thinks that that telephone call that he made to Mr. Smith really deserves the recognition that it has received and now referred to as that famous telephone call?

Mr. Cronyn: No, I do not think so, amen!

Mr. Allan: That was all.

Mr. Chairman: Mr. Bullbrook.

Mr. Bullbrook: I think it was Mr. Cronyn ^{who} ~~that~~ first referred to it as the famous phone call.

Mr. Cronyn: Yes, unfortunately.

Mr. Bullbrook: Mr. Cronyn, there still is in my mind a foundation for asking some questions ~~and~~ I ask you to bear with me and I ask your counsel to bear with me because it is not unusual that witnesses are, from time to time, even in the court, called upon to restate their recognition of certain factual situations ~~and~~ I think your counsel will recognize that. I will try to be brief but I am vitally concerned, sir, with your attitude more than anything else. ~~That~~ That is that your attitude ~~that~~ ^{was} in July the letter that you received was of no significance and yet in December, the very foundation of that letter ~~either~~ November or December ~~was~~ ^{was} of such significance that you would discuss its contents, in effect, with Mr. Fleck. I want to --

Mr. Cronyn: I don't think I ever said I discussed the contents of that letter with Mr. Fleck.

Mr. Bullbrook: I used the words "in effect" and I want to ~~go~~ go over this with you. I understand your responses to my colleague, Mr. Deans, ⁱⁿ ~~with~~ connection with the discussion with the Premier, were basically that your discussion with the Premier had to do with the question of dispersal of government facilities and that really was motivated because of your own natural concern that would result in COGP report number 10. But the discussion with Mr. Fleck went beyond ~~it~~ as I understand it, the question of just ~~dispersal~~ ^{dispersal} ~~and~~ this morning, in your

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4.35 to 4.40 pm
DT(Mr. Bullbrook)

statement to the committee in relation to the letter you say:
"I think most of the ~~gum~~ gentlemen here who have many matters on
their minds practice the same custom of only keeping ~~one~~

Mr. Cronyn: Could I have a copy of what you are
referring to please?

Mr. Bullbrook: Would you -- that's Hansard of this
morning. I am going to read a fairly significant portion of this
because it is your state of mind that Mr. Deans was concerned with
and that I am concerned with. At the bottom of page H-837-1 of
this morning's session, it reads, the last sentence: "I think
most of the gentlemen here who have many matters on their minds
practice the same custom of only concerning yourself or worrying
about things that you can do something about." I want to return
to this. I want to go to the second paragraph on page 837-2
where you say: "At the time of receiving the letter of the 14th
of July, it appeared of no significance to me. It didn't ask me
to do anything and there was nothing I could do in any case. I
did not respond to it ^{and} ~~to~~ the best of ~~my~~ my recollection, I
threw the letter out."



(890 to follow)

July 3rd, 1973

4.40 - 4.45 pm

H 890 - 1

AA

(Mr. Bullbrook)

~~... something in, about things that you
can't do something just. I want to return to that
... to ... second paragraph on page 237 ... where
you say, at the time that ... the ... of
... it appeared of no significance to me ... I did ask
... and there was nothing I decided to any
... I did not ...
... The significance of the letter to me
was no more than the various discussions with Smith which
were, for the most part, casual and impromptu."~~

Not, it's your state of mind, sir, that I am concerned about in July when you received this letter. You liken this letter to the conversations that you had with Smith, that you say were casual and impromptu. But, as we look at the letter, paragraph two and that's exhibit 175, I believe, the second paragraph: "I understand that Jerry Moog started last February on drawings and that he is now working on detailed drawings, although no decision has been made by Hydro."

Now, as I understood your evidence, when you spoke to Mr. Fleck, one of the concerns that you expressed to him was the lack of provision of plan to ~~...~~ Ellis-Don.

Mr. Cronyn: No. I said I think, in my evidence, that I wasn't sure that I ~~mentioned~~ that to him.

Mr. Bullbrook: I find, in response to Mr. Renwick, that you said that there were three things that you could recall, having discussed with Mr. Fleck. ~~What~~ ^{One} was the time given ^{to} for the proposal. Two was the lack of plan availability to Ellis-Don; and three, the lack of response that Ellis-Don had received from Hydro. Those are my notes.

Mr. Cronyn: That may be correct, yes.

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AA

~~Mr. Bullbrook:~~

Mr. Bullbrook: The point I am making ^{is that} here, on

July 14th, by letter to you, Ellis-Don brought to your attention that Moog had had, in effect, a head start. That was a factual situation, as far as you were concerned.

Mr. Cronyn: That is not a factual ~~situation~~

Mr. Bullbrook: It is not a factual situation?

Mr. Cronyn: No sir. He said, "I understand."

Where is the fact in that?

Mr. Bullbrook: Now am I correct in assuming that you never did discuss the question of whether Moog had plans in advance, or Canada Square had plans in advance, with Mr. Fleck. ^{You} didn't discuss ~~it~~ ^{that?}

Mr. Cronyn: I think I said ^{that} to the best of my knowledge, I didn't ~~discuss~~ the plans. I can't swear to that, that I discussed ~~them~~

Mr. Deans: I can't hear.

Mr. Cronyn: ~~ask~~ ^{ask} that or not. Sorry.

Mr. Bullbrook: I realize again in asking you questions that it is most difficult for witnesses to recall the specifics of a conversation that took ~~place~~ ^{place} so long ago, but the general aspect and import of the conversation, I suggest, might come to your mind.

Mr. Cronyn: I think I have given that in my evidence, sir.

Mr. Bullbrook: I realize you have but you have to bear with me because sometimes I am obtuse and can't get to the actual fact, and I want to resolve those facts in my mind. Now, I don't want to badger you, but do I understand ~~you~~ ^{you}?

Mr. Cronyn: Please don't.

Mr. Bullbrook: But I am sure when the counsel for you or the ~~chairman~~ ^{chairman} figures I am badgering you, they will ask that I desist. Do I understand from your evidence, sir, that

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4.40 - 4.45 - pm

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AA

(Mr. Bullbrook)

you didn't discuss, to the best of your recollection, you didn't discuss with Mr. Fleck the question of Moog having advance availability to the drawings of Hydro?

Mr. Cronyn: Well, can I go back to my evidence on that one? I am not sure whether I did or didn't.

Mr. Bullbrook: I am not trying to catch you up. If you want to refer to the evidence, I just feel frankly that either you would recall it or you don't recall it. If you recalled ~~it~~ it this morning, you would recall it this afternoon. But rely on the evidence if you wish. I am interested in knowing these things. I am interested in knowing your attitude and I have tried to premise my examination of you by telling you what I had in mind. Basically the situation is this, that this letter was unimportant, that this letter, aside ~~from~~ from the last paragraph, contains many factual assertions that formed also, as I understand it, the content of your subsequent discussion with Mr. Fleck. Now, I want to ask you again if you can recall whether you talked with Mr. Fleck about Canada Square having advance availability of the plans to them?

Mr. Cronyn: I don't know whether I did ~~or~~ or not.

Mr. Bullbrook: You don't know ~~whether~~ whether you did or not?

Mr. Cronyn: No.

Mr. Bullbrook: I refer to the third paragraph of the letter

H 891 - 1 follows



H 891-1

July 3/73
4:45-4:50 pm
PLG

(Mr. Bullbrook)

July 14:

"What I thought was good about our proposal was the fact that Hydro would only pay rent on the actual cost of the building and that they would have complete access to our books, ~~books~~ ~~subcontracts~~ subcontracts and negotiations to determine the cost of the building. If a person gets a \$28/sq. ft. building and pays rent on a \$30/sq. ft. building, the net gain to the developer is, I would think, in excess of \$10 million, although I haven't worked it ~~out~~ out."

Do you recall in your discussion with Mr. Fleck if you ever did discuss with him the question of the financial merit of the contract, as far as Hydro was concerned?

Mr. Cronyn: You mean as ^{to} the one contract ~~versus~~ versus the other?

Mr. Bullbrook: No.

Mr. Cronyn: Or this type of contract?

Mr. Bullbrook: Well, either. If you could help me, ~~in~~ as far as the economics of the transaction, the ~~one~~ contract between Hydro and Canada Square, did you ever discuss that with Mr. Fleck?

Mr. Cronyn: Not as between contractors.

Mr. Bullbrook: Well, will you tell me how you did discuss it?

Mr. Cronyn: I think I have gone through ~~the~~ that before, in the overall context of COGP's recommendations, and I guess it was number 8, there was a discussion, which is in the report, which covers various ways for the government and its agencies, ~~and~~ boards and commissions to get office space. One is a straight ~~&~~ rental and there are certain advantages to that ⁱⁿ certain situations. The other one is the developer

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PIG

(Mr. Cronyn)

proposal basis, and there are certain advantages to that. And then the other one is to build the buildings themselves. In our report we outline the points regarding the three approaches to getting office ~~and~~ space for government.

Mr. Bullbrook: Well then, do I understand your answer to be that you didn't discuss the particular contract or the economics of the particular contract between Canada Square and Hydro with Mr. Fleck, but rather the general aspect of how Hydro can acquire office space, or any other government entity?

Mr. Cronyn: Well, I think it was a little more specific than that. We were talking about developer/proposals, because this was exactly what Hydro was calling for.

Mr. Bullbrook: Did you discuss ~~an~~ actual figures at that time?

Mr. Cronyn: Not at that time, no.

Mr. Bullbrook: Did you ever discuss with Mr. Fleck actual figures?

Mr. Cronyn: Well, I think it came out in Mr. Smith's testimony that I had said to him that ~~there were some figures~~ I had seen some figures, and that was some time in February or March of 1973 I guess, where I had seen a comparative set of figures which I think are all in the evidence now.

Mr. Bullbrook: So will you agree with me that the third paragraph in this letter, where it relates to the economics of the Canada Square-Hydro contract, did at some time become significant *to you?*

Mr. Cronyn: No. Obviously, the figures of the end cost per square foot figures are significant to Hydro and to the government.

H 891-3

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4:45-4:50 pm
PLG

Mr. Bullbrook: They weren't really significant to you in your capacity as Chairman of the ~~government committee~~ ~~on government productivity~~ Committee on Government productivity, because there you were concerned with generalities.

Mr. Cronyn: Principles.

Mr. Bullbrook: Principles, right. The proposal method, ~~Principles~~ ^{straight} Rental, ~~straight~~ contract, tenders, things of that nature, but at some time with Mr. Fleck you did discuss with him dollars and cents.

Mr. Cronyn: Well, he showed me the figures which involved dollars and cents, yes.

Mr. Bullbrook: Now the last paragraph on that page:

"I felt that the proposal call was not all that complete and I thought that they would probably narrow their decision down to two or three people, and then get them to submit complete plans and specifications which could be judged on an equal basis."

Could you recall whether you ever discussed, either in your capacity of chairman or any other capacity, the question of the actual method of this proposal ~~call~~ call and how it was handled?

Mr. Cronyn: Well I didn't discuss in any specific detail, I just simply pointed out that from Ellis/Don's standpoint, they felt that the thing had not been handled properly by Hydro and cited some of the factual conditions.

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4:50 - 4:55 pm
CA

H-892-1

~~(Mr. Cronyn)~~

~~And cited some of the factual conditions.~~

Mr. Bullbrook: I want to get, therefore, to the nub of this thing, that you might be able to help me with; and that is, in July the conversations that preceded this letter, the letter itself, were of such little significance to you that you actually threw the letter away?

Mr. Cronyn: That is correct, sir.

Mr. Bullbrook: Yet in December, and subsequently, some of the very matters that were contained in the letter were of such ^{or} significance to you that you took it upon yourself to go to see Mr. Fleck about it. I want some help there.

Mr. Cronyn: I think I explained this morning that on July 14 the contract had not been let and, therefore, I felt that there was nothing I could do vis-à-vis this situation; or it would look as though I was trying to assist Ellis-Don, a company of which I was a director. Now when we get to November, the contract ~~is~~ has not only been let, it has been signed, and it is under way, and no one could question my motives in discussing this particular problem, ~~and~~ I was discussing it from the point of view of the mechanics of taking proposals, and the future of taking proposals, because there will be many more buildings built by this government than the Hydro building.

Mr. Bullbrook: So your motivation at the ^{the} time of your discussion with Mr. Fleck was not the specifics of ~~the~~ Canada Square Hydro contract, but rather the implementation of perhaps new policies by government?

Mr. Cronyn: It was the future.

Mr. Bullbrook: ~~Was~~ That was the ~~main~~ motivation?

Mr. Cronyn: That is correct.

Mr. Bullbrook: You can't help us as to that date in November ~~when~~ that motivation came about?

Mr. Cronyn: No. I'm afraid we covered that in quite some detail.

Mr. Bullbrook: Yes, we have. But one could assume that that motivation was subsequent to your knowledge that the Hydro

H-892-2

(Mr. Bullbrook)

contract had been let?

Mr. Cronyn: Oh yes, I'm quite sure of that.

Mr. Bullbrook: It has to be. ~~It is~~ ^{Because} the very foundation of your motivation.

Mr. Cronyn: That's right. That is correct.

Mr. Bullbrook: Is that the Hydro contract had been let?

Mr. Cronyn: Yes, sir.

Mr. Bullbrook: So, then, it was a proper thing in your mind to do to discuss the internal aspects of this very Hydro contract; and what you characterized under former testimony as a sloppy job by Hydro? You don't recall those words "sloppy job"?

Mr. Cronyn: Are you asking me a question?

Mr. Bullbrook: Yes, I'm sorry.

Mr. Cronyn: What is the question?

Mr. Bullbrook: I'm saying, in effect, that after your knowledge that the contract was let, you then felt relieved of a sense of impropriety because of your position, and you felt it was appropriate for you to discuss then with Mr. Fleck the specifics of the Canada Square-Hydro contract which you characterized in former evidence as a sloppy job by Hydro?

Mr. Cronyn: Yes, I said that.

Mr. Chairman: Used words "Appeared to be a sloppy job".

Mr. Bullbrook: What appeared to be a sloppy job.

Mr. Cronyn: Appeared to be a sloppy job.

Mr. Bullbrook: It would be unfair for me to ask you if you still considered this a sloppy job by Hydro, so I won't ask you that question.

Mr. Cronyn: Thank you, sir.

Mr. Bullbrook: Inclosing then, on this question of your change in attitude, you are saying, in effect, that because ~~the Hydro contract~~ ^{the Hydro contract} had been let, you then were in a position to discuss the details of the Hydro contract?

Mr. Cronyn: Yes, sir.

Mr. Bullbrook: Why the details?

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4:50 - 4:55 pm
CA

H-892-3

Mr. Cronyn: The details as I knew them, which were simply from Mr. Smith's point of view, which we have gone over in the evidence before.

Mr. Bullbrook: From Mr. Smith's point of view? You were concerned with Mr. Smith's point of view in December or November?

Mr. Cronyn: I'm simply ~~that~~ that was my source of information. I had no internal knowledge of how the proposal was ~~handled~~ ^{XX} ~~handled~~ ² handled.

Mr. Bullbrook: When that contract was let, from Mr. Smith's point of view, Mr. Cronyn, you couldn't do anything about it? Right? Nothing about it?

Mr. Cronyn: Not about the past. No.

Mr. Bullbrook: Yet you tell us in your opening statement this morning, "I think most of the gentlemen here, who have many matters on their minds, practice the same custom of only concerning yourself or worrying about things that you can do something about". You couldn't do anything about that contract in December.

Mr. Cronyn: That is correct. I couldn't do anything about that contract.

Mr. Bullbrook: Why did you concern yourself with the ~~contract~~ ^{contract} contract?

H-893-1 follows

July 3, 1973
4.55-5.00p.m.
B.A.

(Mr. ~~Crichton~~)

~~That's correct, I d couldn't do anyhting about that contract~~

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Mr. Bullbrook: No, you couldn't. Why did you concern yourself with the specifics of that contract in November?

Mr. Cronyn: Because we were talking about the overall picture of government buildings, ~~and the~~ ^{and the} ~~the~~ future.

Mr. Chairman: Any other member? Mr. Glen Hodgson.

Mr. R. G. Hodgson: Mr. Cronyn, when did Task Force Hydro have its first meeting?

Mr. Cronyn: I think that Task Force Hydro started in the spring of, or June of, 1971.

Mr. R. G. Hodgson: Isn't it true that the reference in the Throne Speech was to examine the structure, the financial and other related subjects, and that Task Force Hydro was to report through you? ~~and~~ Wouldn't you think that that responsibility would be yours to ~~xx~~ oversee?

Mr. Cronyn: No, we - it was my responsibility to set the thing up (set the task force up) and help with its terms of reference and get its programme going, and It was up to my committee to screen the recommendations that came from Task Force Hydro to see that they fitted in to the overall recommendations that COGP was making for the future organization of the government, which included all agencies, boards and commissions.

Mr. R. G. Hodgson: Did you feel that it was your responsibility to see that Task Force Hydro would review matters raised in such a letter as that of July 14th?

Mr. Cronyn: No, I did not, sir. ~~They had~~ Their
programme was well underway by then and they cut out the number
of areas that they were addressing themselves too there were
also other

Mr. Chairman: Any other members of the committee?

Mr. Gaunt: Mr. Chairman, I have a couple of brief questions, really on matters of clarification. Can you pinpoint

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E.A.

H-893-2

(Mr. Gaunt)

roughly, Mr. Cronyn, when you threw the letter out of July 14th?

Mr. Cronyn: I have no way of pinpointing that, sir.

Mr. Gaunt: No. What I am coming at is, would it be after your November discussion with the Premier?

Mr. Cronyn: No, it would be back in the ~~late~~

Mr. Gaunt: Or Mr. Fleck?

Mr. Cronyn: It would be back in the summer, I wouldn't have kept the letter.

Mr. Gaunt: In searching your memory, do you have any recall as to whether there is any other written material which you have received, referable to Hydro from any source, which you may have thrown out?

Mr. Cronyn: Referable to Hydro? That's ~~late~~

Mr. Gaunt: All right, let me be more specific. Has there been, in your memory, after, I'm sure, thinking about these matters over the weekend, did you receive at any time, during the period in question, any written material referable to the letting of the contract, by Hydro, which you may have thrown out?

Mr. Cronyn: I have no recollection of receiving any or throwing any out.

Mr. Gaunt: Do you recall getting any phone calls or having any discussions with people about the Hydro contract other than the people you ~~has~~ have already mentioned in your testimony?

Mr. Cronyn: No, sir.

Mr. Chairman: Mr. Shibley.

Mr. Shibley: There are a few things I would like to clear up, Mr. Cronyn. Did the letter of July 14 ever find itself into your personal and confidential file prior to its being disposed of?

Mr. Cronyn: No, sir, it never found its way, I don't think, into any file.

Mr. Shibley: I see. So you received it, read it, and discarded it?

H-893-3

TIME

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B.A.

Mr. Cronyn: Yes.

Mr. Shibley: All right. Then, you have ~~made~~^{put} some
emphasis upon the fact that you were in a sensitive position
throughout the period

(Tape H-894 follows)

July 3, 1973
5.00-5.05 p.m.
M.F.

H - 894 - 1

(Mr. Shibley)

~~some emphasis on the fact that you were in a sensitive~~
~~position at that time~~ of time that Hydro was
considering this contract, and I can't help but note that the
first report to you of the Task Force Hydro was August 15, 1972.
You received that report at that time?

Mr. Cronyn: Yes, sir. *I presume it was it.*

Mr. Shibley: I take it then that from day one when
Smith communicated with you in 1971 and throughout the period
of time down to the end of 1972 and more particularly November 1,
1972, you considered that your position was hypersensitive in
terms of having anything to do with the allocation of the Hydro
contract to anyone?

Mr. Cronyn: For the office building? Yes, sir.

Mr. Shibley: ~~Now then~~ and that was your reason for
shunning any communication with Smith or any effort to take up
matters which he took up with you. Is that correct?

Mr. Cronyn: That is correct, sir.

Mr. Shibley: Now both Mr. Dean and Mr. Bullbrook have
attempted to get at this, ~~and~~ because it is so key to your
explanation for taking no action on the July 14 letter and no
action respecting information provided you by Smith in February
of 1972, ^{and you} did nothing until the contract was actually let, and
thereafter felt that you were free to say something to Mr. Fleck,
did you view the character of Mr. Smith's communications with
you to be such that he was seeking an advantage emanating from
your position with government at that time?

Mr. Cronyn: No, I did not, sir. I thought I had
cleared that up with him right from the beginning that I could do
nothing to help him, and he understood that and accepted that.

Mr. Shibley: And you did not ~~view~~ his letter of July
14 to the - well just going back - you explained that to him
vis-a-vis your discussions in February, 1972. Is that correct?

July 3, 1973
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M.P.

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Mr. Cronyn: I think perhaps it was even earlier than that. It was when he was inquiring about ~~was~~ whether Hydro was going to go ahead with ~~the~~^{its} building or not.

Mr. Shibley: All right, in 1971?

Mr. Cronyn: Late '71.

Mr. Shibley: Did you view his comments to you in that first interview to be such that he was seeking an advantage through you in obtaining the Hydro contract?

Mr. Cronyn: No, I did not.

Mr. Shibley: But you nevertheless considered it necessary to make it clear to him that ~~was~~ --

Mr. Cronyn: I did, sir.

Mr. Shibley: Now then when he raised the matter with you in February, did you consider that he was raising it with you to obtain an advantage or raising it with you in order to make you aware that something ~~was~~ wrong was going on within Hydro?

Mr. Cronyn: Well he certainly wasn't raising it asking me to do anything.

Mr. Shibley: So that with respect to the second part of what I asked you, his only purpose in your mind then was to bring to your attention the sloppy job?

Mr. Cronyn: Or to register his beefs about the way the thing was being handled.

Mr. Shibley: And then the communication of the letter of July 14th, do you view that communication with you to be of the same ilk, not to receive some advantage from you but rather to bring home to you areas of complaint?

Mr. Cronyn: The same ilk.

Mr. Shibley: And that cuts across the whole of the communications between Mr. Smith and yourself? Is that correct?

Mr. Cronyn: Yes, sir.

Mr. Shibley: Do you have a calendar for the year 1972, Mr. Cronyn?

Mr. Cronyn: No, I don't, sir.

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M.F.

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Mr. Shibley: Did you discard that calendar?

Mr. Cronyn: Yes, sir.

Mr. Shibley: When did you discard it?

Mr. Cronyn: I suppose at the beginning of the year.

Mr. Shibley: Do you have a diary for that year?

Mr. Cronyn: No, I don't, sir.

Mr. Shibley: So you don't keep your diaries or calendars, as they may be called, for ~~9~~ ^{past} years ~~are~~?

Mr. Cronyn: Not as a practice.

Mr. Shibley: Do you have any method of logging or recording your attendances during any given period of time?

Mr. Cronyn: No. Well, I do during the current year, during the calendar year.

Mr. Shibley: I realize, but otherwise you maintain no docket, records or other logging methods of recording your attendances?

Mr. Cronyn: No, sir. I am sorry, I didn't hear that word - attendances?

Tape H - 895 follows

July 3/73
5.05 to 5.10 pm
DT

~~Mr. Cronyn: I don't know the word that~~

Mr. Shibley: Well, I am thinking ~~of~~ meetings with people, conversations with people and so on. We call it docketing

Mr. Cronyn: Yes, I see.

Mr. Shibley: Among lawyers.

Mr. Cronyn: No, I don't keep them

Mr. Shibley: Because we intend to charge for those things!

Mr. Cronyn: I am not in that fortunate a position.

Mr. Shibley: I see. The terms of your appointment as aide to the Ontario government did not require you to maintain any record of your attendancies?

Mr. Cronyn: None whatsoever, sir.

Mr. Shibley: I have no further questions.

Mr. Chairman: Thank you very much, Mr. Cronyn, for again being with us.

Mr. Shibley: Call Mr. Smith, ~~now~~ please.

Mr. Bullbrook: Would it be the intention of the committee to have Mr. Cronyn at our disposal again perhaps?

Mr. Chairman: It could be. I don't think to date we have released any witness in the sense that we have said we will not want to see him back again although I don't think that there are any ~~one~~ presently -- well, I shouldn't say there are none that are under notice to be back because there is one coming up right now who is under notice to come back again.

Mr. Bullbrook: I just wanted to make sure that the witness and his counsel recognize that it wouldn't be unfair treatment to recall him if necessary.

Mr. Shibley: Mr. Bullbrook, be assured that no one is immune to being recalled, in my thinking at least.

Mr. Chairman: Mr. Smith.

Mr. Brownlie: Mr. Chairman, could you tell me how long you propose to go on and have this

Mr. Chairman: I would think until 6 o'clock anyway.
(I would say)
Mr. Smith, welcome back but I know it is not the kind of party you

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DT(Mr. Chairman)

like to return to but ^(we) thank you for coming back. I would remind you that ^{th (on first)} the day of your ~~first~~ testimony you were sworn.

Mr. Shibley.

Mr. Shibley: Mr. Smith, it has become a matter of importance to establish as precisely as we can the timing of the telephone communication from Mr. Cronyn to yourself which took place, it appears, in either November or December of 1972. In that connection, Mr. Manthorpe has testified that you were in communication with him during the week of November 27, 1972, and that within that conversation you made reference to a telephone communication, an earlier telephone communication, from someone close to the Premier's office. When you reported that information to Mr. Manthorpe were you referring to Mr. Cronyn's previous call?

Mr. Smith: I didn't say that I said that to Mr. Manthorpe.

Mr. Shibley: Well, what did you say to Mr. Manthorpe?

Mr. Smith: I don't recall what I said to Mr. Manthorpe. I don't believe I said "somebody close to the Premier's office." Those were his words. They were not mine.

Mr. Shibley: At the moment I am only interested in chronology. Had you already received Mr. Cronyn's call before you called Mr. Manthorpe?

Mr. Smith: No.

Mr. Shibley: You had not?

Mr. Smith: No. Had I received Mr. Cronyn's call before I called Mr. Manthorpe? No, I had not.

Mr. Shibley: Here we go again.

Mr. Smith: Maybe I misunderstood the question.

Mr. Shibley: So that to make it clear, you say you called Mr. Manthorpe prior in point of time to receiving Mr. Cronyn's call?

Mr. Smith: Yes, that's my recollection.

~~Mr. Shibley: And can you assist us~~

(896 to follow)

4-896-1

July 3/73
5:10-5:15 pm
C.B.

(Mr. Shibley)

Mr. Shibley: Can you assist us as to how much time elapsed between those two calls?

Mr. Smith: I don't connect the two calls at all, Mr. Shibley. I don't tie them together at all. I called Mr. Manthorpe, and I checked with my secretary earlier today to see if she could recall a date, and she said that there was an article by Mr. Manthorpe in the Globe and Mail that she put on my desk, and it was shortly after that, that I called Mr. Manthorpe. Obviously, the article that he wrote on Workmen's Compensation.

Mr. Shibley: On Workmen's Compensation?

Mr. Smith: ~~That's~~ That's what

Mr. Shibley: Could ~~you~~ assist you as to the date of that article?

Mr. Smith: Did she assist me? No, she did not.

Mr. Shibley: Was that an article written within the month of November or within the month of December?

Mr. Smith: I just don't recall, Mr. Shibley.

Mr. Shibley: In any event it was an article written by Mr. Manthorpe referable to the Workmen's Compensation Board?

Mr. Smith: I told in previous testimony I thought it had been on Hydro or something so obviously I can't recall that.

Mr. Shibley: ~~So it~~ was an article written by Mr. Manthorpe referable to Workmen's Compensation, that caused

July 3/73
5:10-5:15 pm
C.B.

~~Mr. Shibley~~

you to single him out for the telephone call that you made to him?

Mr. Smith: Yes, she put the article on my desk and said the Globe might be interested in the story on the Hydro. ~~After~~ I didn't do anything about it for, I don't recall how long, but it sat on my desk for a few days, ~~and then~~ ^{Then} I'm not sure whether I took the article to Toronto because I put it on my desk. At least I was aware of it and then I called Mr. Manthorpe.

Mr. Shibley: So that you called him within a few days of the date of the publication that you read?

Mr. Smith: I won't say a few days.

Mr. Shibley: Well, how long?

Mr. Smith: I don't know.

Mr. Shibley, What's your best estimate?

Mr. Smith: I just don't know it might be four or five days; it might be three days, I don't know really.

Shibley:

Mr. ~~Smith~~: Can you give us an outside limit Mr. Smith?

Mr. Smith: No, I can't. I know it sat on my desk for a couple of days, it might be only ~~one~~ ^{two} days.

Mr. Shibley: You are talking about periods of time from the date of the publication. Is that correct?

Mr. Smith: That's where I got the idea to phone Mr. Manthorpe, from the publication.

Mr. Shibley: So if we get the publication in question and obtained from it the date it was published...

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C.B.

Mr. Smith: No I don't think I could. I just don't recall, I don't tie the date down at all.

Mr. Shibley: If we got that, could we take it that your communication to Mr. Manthorpe would be within at most four to five days from the date of that publication?

Mr. Smith: I just don't recall. You asked me to the best of my recollection and that's what I gave you, and I can't do any better than that.

Mr. Shibley: In any event had you yet read any article referable to Hydro as at the time you called Mr. Manthorpe?

Mr. Smith: I don't know.

Mr. Shibley: Mr. Smith

Mr. Smith: I don't think I had if you want my honest opinion.

Mr. Shibley: You don't think you had?

Mr. Smith: No, I don't

Mr. Shibley: And can we take it then from that answer that there had not yet been published in the press Mr Nixon's questions which were tabled in the House on December 1, 1972, as at the time you called Mr. Manthorpe?

Mr. Smith: That's what I'm trying to recall, and I just don't recall.

Mr. Shibley: You were vitally interested in the Hydro building back at that time?

Smith

Mr. Smith: I'm not sure I understand. ~~Was~~

Mr. Shibley: You were very concerned. ~~Was~~
was concerned all right yes.

Mr. Smith: ~~and publication~~

July 3rd, 1973

15 - 5.20 pm

H 897 - 1

AA

~~Mr. Shibley: Any publication referable to the letting of the Hydro contract would have been brought to your attention?~~

Mr. Smith: Yes.

Mr. Shibley: ~~So~~ So that if Mr. Nixon's questions were a matter for publication in the press, it would have been brought to your attention at the time, would it not?

Mr. Smith: Oh, certainly, I was aware when they were in the press.

Mr. Shibley: Yes. And yet, as at the time you spoke to Mr. Manthorpe, you had not seen any such publication?

Mr. Smith: I just don't recall, really. I didn't ask Mrs. Shuttleworth that today. I seem to think I talked to him before that, but

Mr. Shibley: Yes. You seem to think you talked to Manthorpe before the publication of Mr. Nixon's questions. Is that right?

Mr. Smith: Yes, I think so. I think if I had seen Mr. Nixon's article or his questions that I might have mentioned them ~~to Mr. Manthorpe~~ to Mr. Manthorpe.

Mr. Shibley: And you did not mention them to him? They were not the subject of discussion between you and he when you made your first call on him.

Mr. Smith: No, I don't think so. No.

Mr. Shibley: And Mrs. Shuttleworth would have brought that kind of article to your attention rather than one referable to Workmen's Compensation as a more directly related article?

Mr. Smith: She clips all the papers for me and so she would have brought that.

July 3rd, 1973

3:15 - 5:20 pm

H 897 - 2

AA

~~Mr. Shibley:~~ Mr. Shibley: So that, Mr. Smith, can we take it that from the combination of circumstances that we have been discussing, you and I, just now, that to the best of your recollection, the conversation you had with Mr. ~~Manthorpe~~ Manthorpe took place before the publication of Mr. Nixon's questions of December 1st, 1972?

Mr. Smith: That's the best of my recollection, yes.

Mr. Shibley: And I might say, Mr. Smith, that would be consistent with you having said to one of these reporters that you had received a call a few weeks ago, that you had received that call some two weeks - I'm sorry. Let's stand back for a moment. Mr. Manthorpe has said, and I will read you his evidence, Mr. Renwick was asking on page 8725, page one, June 21, "So far as you can clarify the matter, it would therefore be, in the week commencing Monday, November 27, 1972, that Mr. Smith told you about the call from someone close to the Cabinet."

Mr. Manthorpe: As near as I can tie it down, yes.

And I think he went on to say that you said - or there is some evidence that you told either Manthorpe or McAuliffe, and it is a little confusing, that you had received this call a couple of weeks, two weeks previously. Do you remember saying that?

Mr. Smith: No, I don't. I told - well I think you have my testimony on what I told McAuliffe. I could have said a couple of weeks ago or a little while ago.

Mr. Shibley: I believe it was Mr. McAuliffe who gave that testimony that you told - I am looking at the evidence at page 731 - 2, June 21.

H 898 - 1 follows

JULY 3/73
5:20 - 5:25 pm
CA

H-898-1

(Mr. Shibley)

"Mr. McAuliffe: He told me that he had been called several weeks before by a source close to the Cabinet and high up in the Progressive Conservative Party, and told to keep his mouth shut" and so on.

Did you ever say to Mr. McAuliffe that it had been several weeks before that you received such a call?

Mr. Smith: Yes. I said I received a call, I'm not going to say several weeks; I'll say a while back, because I was referring to Mr. Cronyn's call, and, as I told you, I thought it was in January, and, of course, obviously it wasn't.

Mr. Shibley: Might there have been some confusion in your mind at the time that you spoke to McAuliffe, that you were talking about the same period of delay between when you received the call and the time of your call to Mr. Manthorpe?

Mr. Smith: Oh, no. No.

Mr. Shibley: You now know, of course, that Mr. Manthorpe has testified that he had not undertaken any investigation, but was only considering an investigation of Hydro at the time you called him?

Mr. Smith: Yes I realized that.

Mr. Shibley: Do you remember him saying it was strange that you should be calling him at that particular time because he had been thinking about it for a couple of weeks?

Mr. Smith: Yes, that rings a bell with me.

Mr. Shibley: I'll read you the transcript at 703-2, June 21;

"Mr. Manthorpe: Well, I said to him then that it was strange that he should mention that as I had just started looking at that particular deal, about two weeks before."

Now, Mr. Smith, two weeks before the week of November 27 is the week of November 13.

Mr. Smith: Yes.

Mr. Shibley: And it is in the week of November 27 that Mr. Manthorpe said he received your call.

July 3/73
5:20 - 5:25 pm
CA

H-898-2

Mr. Smith: Yes.

Mr. Shibley: Did he say to you, at the time you called him, that it was about two weeks earlier that he started looking at that particular deal?

Mr. Smith: I'm not sure whether he said.... I remember him saying "Funny you should call. I was thinking of looking into it." I'm not sure if he said a couple of weeks ago or not.

Mr. Shibley: Did he say to you... I'm sorry. Did you have a telephone ~~sever~~ conference with Mr. Cronyn[?] in or about that time?

Mr. Smith: No, sir.

Mr. Shibley: You had no telephone conversation with Mr. Cronyn at any time within the months of November or December, 1972?

Mr. Smith: I had the one telephone call that I received at home.

Mr. Shibley: Yes. And when do you say that call was received?

Mr. Smith: To the best of my recollection it was received, I thought, when they were going to give the answers to Mr. Nixon's questions.

Mr. Shibley: Do you remember saying previously that Mr. Cronyn[?]

Mr. Smith: That is ^{to} the best of my recollection on that.

Mr. Shibley: I realize, Mr. Smith.

Do you remember saying previously that Mr. Cronyn said it might be ~~xxxxx~~ coming up in the House? I read the excerpts earlier.

Mr. Smith: Yes, that's right.

Mr. Shibley: You heard me read those ^c excerpts?

Mr. Smith: ^{that} It might be coming up in the House?

Mr. Shibley: ^{that} ~~It~~ might be coming up in the House, not that it would be, ~~that~~ but that it might be.

Mr. Smith: Yes.

Mr. Shibley: All right. Now, Mr. Smith, I take it that by the time you wrote to Mr. Seguin in August of 1972 you were quite

H-899-1 follows

H 899-1

July 3/73
5:25-5:30 pm
PLG

(Mr. Shibley)

~~August of 1972~~ You were quite infuriated by the whole
circumstances surrounding the letting of this contract by
Hydro. Is that correct?

Mr. ~~DA~~ Smith: Anncyed,
~~xxxxxxx~~ yes.

Mr. Shibley: And up to that point of time
you had made every endeavour to bring it to the attention
of Mr. Cronyn, Mr. Seguin, and other persons. Is that correct?

Mr. ~~DA~~ Smith: Yes.

Mr. Shibley: You had even arranged to have a
meeting in July with Mr. Gathercole. Is that correct?

Mr. ~~DA~~ Smith: That is right.

Mr. Shibley: And had to go to some efforts to
get that meeting. Is that correct?

Mr. ~~DA~~ Smith: Yes.

Mr. Shibley: And notwithstanding your frustration
up to that point of time when you wrote to Mr. Seguin, and I
gather you got no answer from him either. Is that right?

Mr. ~~DA~~ Smith: No.

Mr. Shibley: You got no answer from Mr. Cronyn
to the letter of July 14?

Mr. ~~DA~~ Smith: No.

Mr. Shibley: And no answer from Mr. Seguin to
your letter to him? Is that correct?

Mr. ~~DA~~ Smith: That is correct.

Mr. Shibley: And notwithstanding your frustration
and the blatant neglect, so to speak, of any communication^{ca} with_{is}
you, you remained silent respecting this matter until you once
again took up the cudgel when you called Mr. Manthorpe in
November of 1972.

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PLG

Mr. ~~Mr.~~ Smith: That's right.

Mr. Shibley: What provoked you to call Mr. Manthorpe in November of 1972?

Mr. ~~Mr.~~ Smith: His article in the paper.
He might ^{not} recall that but it was his article in the paper that prompted me to call him.

Mr. Shibley: There was no other provocation by way of any communication from someone?

Mr. ~~Mr.~~ Smith: No Sir.

Mr. Shibley: You had mentioned in your earlier evidence that anyone in London who knows you would know better than to tell you to keep quiet. Do you remember saying that?

Mr. ~~Mr.~~ Smith: I remember saying that, yes.

Mr. Shibley: Was it a case that somebody having told you to keep quiet...

Mr. ~~Mr.~~ Smith: I don't know who.

Mr. Shibley: Was it a case that somebody having told you to keep quiet, you were thereby provoked into calling Mr. Manthorpe?

Mr. ~~Mr.~~ Smith: No Sir. I think my secretary would testify to the background of the telephone call to Mr. Manthorpe too because she was the one that cut it out of the paper, and put it on my desk.

Mr. Shibley: Well Mr. Chairman...

Mr. Chairman: Let's not recall Mrs. Shuttleworth.

Mr. ~~Mr.~~ Smith: Okay. I didn't suggest you ~~xxx~~ should ~~be~~ but...

Mr. Chairman: One has been the most pleasant for me to look at. At the same time, I think we have got to keep moving.

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5:25-5:30 pm
PLG

Mr. Shibley: Mr. Smith, I only have one other

Mr. Shibley: June 10, I am told. Do you remember
ew?

Mr. Shibley: And you remember my asking you
person who was referenced in the newspaper article
ide a telephone call to you?

Mr. Shibley: And you said to me, "Do I have to answer that question?"

Mr. Shibley: And I said, "Yes you do."

Mr. Shibley: And you then disclosed to me that
conyn.

Mr. Shibley: You went on to say to me that he was going to be ~~there~~ very upset because you had disclosed his name, did you not?

Mr. Shibley: Had you had prior discussions with Mr. Cronyn as to the need to disclose his name?

Mr. Shibley: Because you knew that he was going to be upset by your having made disclosure of his name to me, did you call Mr. Shibley and tell him that you had made disclosure of his name to me?

Mr. Cronyn, following your interview by me?

H 899-4

July 3/73
5:25-5:30 pm
PLG

Mr. ~~74~~ Smith: Did I call him? I ~~mr~~ certainly mentioned to him on some occasion that I had spoken to you.

Mr. Shibley: Yes.

Mr. ~~74~~ Smith: And I think I said I was going to have to mention his name.

Mr. Shibley: You said you thought you ~~was~~ were going to have to mention his name? You mean at the hearing?

Tape H 900 follows

July 3, 1973
5.30-5.35p.m.
B.A.

H-900-1

(Mr. Shibley)

~~You said that you were in communication~~

Mr. Smith: Yes.

Mr. Shibley: Did you tell him subsequent to your interview with me that you had disclosed to me that he was the person in the article?

Mr. Smith: That I disclosed to you? Yes.

Mr. Shibley: Yes. You told him that. Is that right?

Mr. Smith: I'm not sure, really.

Mr. Shibley: You were in communication with him about the hearing after your interview by me?

Mr. Smith: I just don't rec^{all} the circumstance. I'm just trying to recall it, really.

Mr. Shibley: I'm not really interested in the circumstance. Were you in communication with him following your interview with me about the hearing in to the Hydro building?

Mr. Smith: I'm just not ^{certain} my opinion would be that I was.

Mr. Shibley: Yes. And did you, in the course of that communication, tell him that you had identified him to me as the person referenced in that article?

Mr. Smith: I can't be sure, because I talked it over with Grant, and I talked it over with people in our office, and I said I am going to have to mention Mr. Cronyn's name, and I am not sure if I called him, really. If I ~~as~~ could recall the situation.

Mr. Shibley: Mr. Smith, this was a worrisome thing for you after you had disclosed his identity to me, was it not?

Mr. Smith: Only to the point that I didn't want to embarrass him.

Mr. Shibley: Yes. It was worrisome to you, You talked to Grant, you talked to your secretary, surely you also talked to Mr. Cronyn ~~ghay~~ about it.

H-900-2

July 3, 1973
5.30-5.35p.m.
B.A.

Mr. Smith: I'm not sure if I did or not.

I'm just not sure, really.

Mr. Shibley: Well, what is your best recollection?

Mr. Smith: Really, I'm trying to recall. I don't recall telling him.

Mr. Shibley: He's a ~~former~~ friend of yours?

Mr. Smith: Oh, sure.

Mr. Shibley: He's a neighbour? Is that correct? He's a neighbour?

Mr. Smith: He's a neighbour up at the lake.

Mr. Shibley: He's a director of your company?

Mr. Smith: Yes, sir.

Mr. Shibley: And his identity was a matter of major ~~concern~~ concern to you.

Mr. Smith: Yes.

Mr. Shibley: Are you suggesting that in all those circumstances you didn't take the time and the effort to communicate to him the fact that you had disclosed his identity to me?

Mr. Smith: I would think I probably did tell him *that*.

Mr. Shibley: Yes. I have no further questions.

Mr. Chairman: Mr. Deans first, then Mr. Newman.

Mr. Deans: I have ~~only~~ only one question. Did you speak to anyone else other than Mr. Mantorpe ~~as a result of this~~?

(H-901 follows)

11 - 901 - 1

July 3, 1973
5:35.5-40 p.m.
M.F.

H - 901 - 2

(Mr. Walker)

"Order paper" or the words "question paper"?

Mr. Smith: "Order paper" would be the one I would say.

Mr. Walker: Well, are you saying by that that Mr. Cronyn made some reference to the words "order paper"?

Mr. Smith: No, I wouldn't swear to that. I would say he could have said that, but I wouldn't swear to that.

Mr. Walker: I am sorry, but I am not asking you to choose between the two of them.

Mr. Smith: I can't swear that he said "order paper."

Mr. Walker: All right, what about the words "question paper"?

Mr. Smith: No, I don't believe he mentioned "question paper."

Mr. Walker: What about the words "tabled in the House"?

Mr. Smith: No, that doesn't do anything.

Mr. Walker: Did you make the telephone calls to Manthorpe from London?

Mr. Smith: No, I made them from our Toronto office.

Mr. Walker: Well, I guess there would be no long distance record then? That is all the questions I have.

Mr. Chairman: Mr. Gaunt?

Mr. Gaunt: Mr. Smith, the ~~other~~ other day in your testimony you indicated that Mr. Stewart had been ~~fired~~ hired by your firm. Did his firing have anything to do with the loss of the Hydro job?

Mr. Smith: No, nothing whatsoever. That is quite clear and apparent. The job I hired him to do I sort of felt I had to do the job myself.

Mr. Gaunt: What was the timing? What was the date of his release?

Mr. Smith: I guess as in previous testimony it was around the middle of June, '72.

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5:35-5:40 p.m.
M.F.

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Mr. Gaunt: Did he have access to your personal and confidential file?

Mr. Smith: No, he didn't. He worked in our Toronto office and he had his own files; he actually operated as a lone person. He replied to me but he didn't have any immediate boss in the Toronto office, ~~the~~ he kind of just went on his own all the time.

Mr. Gaunt: So that in actual fact his responsibilities really had very little to do with this particular Hydro project?

Mr. Smith: I would say he established the first contact~~s~~ and that was what I wanted him to do in many cases.

Mr. Gaunt: And beyond that his responsibilities ~~was~~ ~~was~~

Mr. Smith: They would cease because he doesn't have any experience in carrying out further steps, putting in estimates or proposals.

Tape H - 902 follows

July 3/73

5:40-5:45pm

C.B.

Mr. Gaunt: So he would make the contact and then you would take it from there?

Mr. Smith: Yes.

Mr. Chairman: Any other questions? Mr. Hodgson.

Mr. R.G. Hodgson: Would there be anybody else in the Toronto office present when you made the call to Manthorpe?

Mr. Smith: No, it was made in my own office.

Mr. Chairman: Any others? Mr. Renwick.

Mr. Walker: ~~Is~~ there any records of your visits to your Toronto office, such that we might establish the times when you made the telephone calls?

Mr. Smith: No, I've been trying to think of that, my calendar ~~is~~ but not phone calls. I'm in Toronto three days a week, I'm back and forth.

Mr. Walker: All right. Every week you are in three days a week, then.

Mr. Smith: More these days.

Mr. Walker: Join the club!

Mr. Smith: About two or three days, Mr. Walker, every week all year.

Mr. Chairman: Mr Renwick.

Mr Renwick: Mr Chairman, can you help me with

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5:40-5:45pm

C.B.

(Mr. Renwick)

the date on which Mr Cronyn telephoned you? The reason I ask the question is that ~~I~~ believe I can use the word again ~~the~~ the reason I ask the question again, is that your first evidence was that you - I don't mean that you've changed your evidence; I'm not saying that ~~your~~ ~~first~~ first recollection was that you thought it was in January but ~~then~~ then you deferred to Mr. Cronyn's evidence that it was in December.

Mr. Smith: That's right.

Mr. Renwick: Now, apart ~~of~~ from Mr. Cronyn's evidence about when that call was made, is there anything you can do or any assistance you can be to establish the ~~at~~ date of that telephone call?

Mr. Smith: No, Probably if you asked me again and I didn't have Mr Cronyn's evidence, I'd probably say January, again. BEcause it seemed a fair while ago and it was certainly related to coming up in the House, ~~and~~ ~~he~~ said, ~~MI~~ I might be getting a call from the Globe and Mail, and, of course, I never got one so I put the conversation out of my mind.

Mr. Renwick : Well, let me help you this way. The session of the Legislature recessed on December 14 or 15, and the House was not in session in January or in February.

Mr. Smith: Yes.

Mr. Renwick : So ~~that your~~ ~~your~~ ~~your~~ evidence was that it was something to do with the matter coming up in the House?

Mr. Smith: That's right.

Mr. Renwick: Now, is that of any assistance, apart from Mr. Cronyn's ~~your~~ evidence?

July 30, 1973

5:45 - 5:50 pm

P 903 - 1

AA

(Mr. Smith)

and some controversy about it previously. I believe Mr. Nixon had tabled his questions.

Mr. Renwick: Are you saying that because of Mr. Cronyn's evidence or from some other recollection of yours?

Mr. Smith: My only recollection ^{would} be that the thing seemed alive at the time and so, it would obviously have to be either in the papers or in the House. It seemed to be alive at the time.

Mr. Renwick: Well, it would certainly come alive in your mind as a result of ~~the~~ telephone call from Mr. Cronyn.

Mr. Smith: I believe I had seen it in the papers before, Mr. Renwick.

Mr. Renwick: I have no further questions, Mr. Chairman.

Mr. Chairman: Any other questions?

Mr. Walker: Let me ask you, I'm a bit concerned with and this arises out of the question Mr. Shibley terminated with just a few moments ago about Mr. Smith making some reference, following Mr. Smith's discussions with Mr. Shibley to Mr. Cronyn, you indicated that possibly, I believe were your words, something along this line, that you had indicated to Mr. Cronyn following your discussions with Mr. Shibley that you had, in fact, named him. Am I correct in that, Mr. Smith? I just wanted to

Mr. Smith: I wouldn't swear to that. I said I wouldn't swear to that.

Mr. Walker: Well, we are left a bit in the air by the answers. By saying you wouldn't swear to it, I am not sure whether you are saying it is right or it could be wrong.

Mr. Smith: I just can't remember the occasion of phoning Mr. Cronyn.

Mr. Walker: All right. Now, what day did Mr. Shibley talk to you?

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B.A.

H-902-3

Mr. Smith: No, because I looked in the paper the next day and it didn't appear ^{that} the ~~same~~ matter did come up. I didn't see anything about it, or hear anything ^{more} about it, so I didn't pay any more attention to it.

Mr. Renwick: ~~He~~ didn't see any ~~more~~ about it or hear anything about it the next day or two?

Mr. Smith: I looked in the paper for the next couple of days to see if there was something because I had been following what Mr. Nixon had in, and ~~our~~ secretary-treasurer used to cut it out of the paper and I didn't see anything so I didn't pay any more attention.

Mr. Renwick: Let me just be clear; ^{you} say ~~to you~~ ~~that~~ that nothing came up, and then you referred to Mr. Nixon?

Mr. Smith: No. I think the questions had been brought up previously and I think that they were in the newspaper, ~~and~~ but I didn't see anything after that. I believe we had those cut out.

Mr. Renwick: Is ~~there anything~~ -- ~~was it~~ ^{because} ~~because~~ nothing had appeared in the newspaper that you didn't see it at the time that Mr. Cronyn called?

Mr. Smith: I would ~~assume~~ ^{because} because I read the paper fairly thoroughly.

Mr. Renwick: ~~Could~~ Could it be that the matter had not as yet come to the public attention and therefore was not in the papers at the time that Mr. Cronyn called you?

Mr. Smith: No, I feel that there had been some controversy about it previously. I believe Mr. Nixon had tabled his questions.

(Tape H-903 follows)

(Mr. Smith)

Mr. Smith: I told you today and I believe it was a Tuesday.

Mr. Bullbrook: The 10th

Mr. Walker: Pardon?

Mr. Smith: I believe it was a Tuesday. I don't know.

~~He knows~~ the date.

Mr. Shibley: Monday.

Mr. Walker: Monday, the 10th.

Mr. Smith: Yes.

Mr. Walker: And it was at that meeting that you

Mr. Smith: ~~It~~ It was a Monday, that's right.

A Monday or a Friday.

Mr. Walker: And it was at that meeting that at his request you disclosed the name of the "source."

Mr. Smith: That's right.

Mr. Walker: All right. Now, that was roughly 23 days ago. Do you recall if you spoke with Mr. Cronyn between Monday the 10th of June

Mr. Chairman. I think it is Monday the 11th by the calendar here.

Mr. Walker: 23 days, Monday the 10th of June and let us say the last week. Did you talk to him in that interim?

Mr. Smith: Certainly I talked to him in that interim. Yes I did.

Mr. Walker: Did you talk to him about the matter of naming him, if I can use that to describe the situation?

Mr. Smith: I believe I did.

Mr. Walker: And did you talk to

Mr. Smith: I think I related ~~that~~ conversation with

Mr. Shibley and I believe I told him that Mr. Shibley said I would have to mention the

July 3rd, 1973

5:45 - 5:50 pm

H 903 - 3

AA

(Mr. Walker:

Mr. Walker: Had you talked to Mr. Shibley prior to the 10th?

Mr. Smith: No, I had not.

Mr. Walker: You had only one meeting then with Mr. Shibley?

Mr. Smith: Yes.

Mr. Walker: How did you communicate with Mr. Cronyn?

Mr. Smith: Oh, I didn't communicate. I just ~~happened to be~~ happened to be -- I was working all one day with him on a -- it was a London Life board meeting that went all day. I believe it was a couple of days after that.

Mr. Walker: ~~A couple of days after~~ A couple of days after what?

Mr. Smith: After the 10th.

Mr. Walker: Can you determine that?

Mr. Smith: Yes, I can determine it. I can't determine it right now.

Mr. Walker: Can you advise through your counsel perhaps the day of the London Life board meeting?

Mr. Smith: Through the counsel.

Mr. Deans: Can you tell?

Mr. Smith: No I just don't recall.

Mr. Walker: I just want to know what day it was.

Mr. Walker: No, but could you find out for us and have your counsel tell us, is what I am saying?

Mr. Brownlie: When the board meeting of London Life was? Yes, we will certainly look into that.

Mr. Walker: All right then yes.

Mr. Smith: I believe it was the Wednesday following

Mr. Walker: Wednesday, that would be the 13th of June.

Mr. Smith: I believe so.

Mr. Walker: Well, Monday, what day was it? Account

~~two days to the 13th~~

H 904 - 1 follows

H-960-1

(Mr. Walker)

~~_____~~
~~_____~~
Mr. Walker: Monday was the 11th of June, and I count two days, so it would be the 13th.

Mr. Smith: I believe so. I haven't look at my ~~map~~pad these days.

Mr. Walker: All right. Now when you encountered Mr. Cronyn during that day, did you?

Mr. Smith: I met him that day. Yes.

Mr. Walker: What do you mean "I met him"?

Mr. Smith: _____

Mr. Walker: When you say you were with him all day, does that necessarily mean that the two of you were side by side the

Mr. Smith: No, we were not side by side. We were at a large meeting that went ~~on~~ all day. Actually he was down at the other end of the meeting from me.

Mr. Walker: He was down where?

Mr. Smith: I was at one end of the room and he was at the other.

Mr. Walker: All right. Then presumably you didn't talk about the Hydro matter during the meeting of London Life?

Mr. Smith: _____

Mr. Walker: When did you talk about these matters?

Mr. Smith: I don't recall that, Walker. I don't a specific instance.

Mr. Walker: Would it be at the _____

Mr. Smith: You asked me did I see him, I don't recall talking about Hydro that day. I said I could have, but I don't recall _____

Mr. Walker: You don't recall talking about Hydro that day? Is that what you are saying?

Mr. Smith: I don't recall talking about Hydro that day.

Mr. Walker: Well then how could you say that you told him in speaking with Mr. Shibley, Mr. Shibley was going to require you to divulge his name?

JUL 3 3:73
5:50 - 5:55 pm
BA

H-904-2

Mr. Smith: I said I thought I did, and I think if I did that, it would have been a time when I could have done it. I don't remember the specific incident.

Mr. Walker: It is quite material here, at this point in time, as to whether you informed Mr. Cronyn that Mr. Shibley would require you to divulge.

Mr. Smith: I am trying to think of instances when I have met Mr. Cronyn since Mr. Shibley, and I would say that was the only time that I have spent any time with him between then and now. So if I did say it, it would have had to be that day.

Mr. Walker: That is the problem with the questions. If you did say it, what do you mean, if you did say it? Do you remember saying it?

Mr. Smith: No, I don't remember saying.

Mr. Walker: Do you remember not saying it?

Mr. Smith: I want it now recorded that if that isn't wedging, I don't know what is.

Mr. Walker: No, I think that is a very valid question.

Mr. Smith: I don't know. I don't know if I told him from talking Mr. Cronyn. As it is, I wouldn't tell him.

Mr. Walker: Then, at any time that you may have said, you may not have said something.

Mr. Smith: I don't know. I don't know, and I may think it occurred to me and say it did then. But I just, I don't recall specifically whether or not I did.

Mr. Walker: But you might have.

Mr. Smith: But I might have.

Mr. Walker: But you might not have as well?

Mr. Smith: Well, as Mr. Shibley said, commonsense would be, that you probably did, and I don't know.

Mr. Walker: I don't want you to take your instructions from Mr. Shibley. He is not putting words in your mouth. I just want to find out if you did say it or didn't say it.

Mr. Smith: I said I can't recall specifically.

Mr. Chairman: He said that a good times, Mr. Walker. I don't know how many times he has said that he can't recall. I think

APPEARANCES

Committee members:	J.H. Allan J.B. Bullbrook T. Burton A. Jones L.C. Henderson R.G. Hodgson W. Hodgson J.P. MacBeth (Chairman) W. Newman J.A. [unclear] G.W. Walker
Clerk of the committee:	Paul Moore
Committee counsel:	R.E. Shibley, QC J.P. Bell
Ontario Hydro counsel:	Pierre Genest, QC James McCallum, QC
Canada Square Counsel:	Douglas Laidlaw, QC Blair Cowper-Smith
Counsel for J.W. Manthorpe and Gerald McAuliffe:	E.M. Lane
Counsel for J.D. Smith, Mrs. A.M. Shuttleworth and D.V. Grant:	John Brownlie
Counsel for J.B. Cronyn:	J.B. Eberle, QC
Senior vice-president, John LaSalle Ltd.:	J.E. [unclear]
President, Ellis-Don Ltd.:	J.D. Smith

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Wednesday, July 4, 1963

Morning Session

LEGISLATURE OF ONTARIO
SELECT COMMITTEE - HYDRO HEADQUARTERS

H 905 - 1

July 4/78
10:10 - 10:15 am.
M.S.

The committee met at 10:10 a.m., in the members' board room.

Mr. Chairman: I call the meeting to order. We have our quorum here. Mr. Fleck is to be the first witness this morning. So, Mr. Fleck, I would ask you to leave the photographers there and come forward. Since we're now in session, I would ask the photographers to quietly vacate.

Mr. Fleck, if I can have your full name I will give you the oath.

Mr. Fleck: James Douglas Fleck.

JAMES DOUGLAS FLECK, sworn

Mr. Chairman: Mr. Shibley?

Mr. Shibley: Mr. Fleck, what is your occupation?

Mr. Fleck: I am chief executive officer in the office of the Premier.

Mr. Shibley: And in that position, what functions do you fulfill?

Mr. Fleck: Well, essentially, it is to head up his office. It covers a wide range of functions that relate to communications; that relate to the use of his time; that relate to the logistics of moving the Premier around the province; it would relate to activities in Cabinet, in relation to his relationship to government as a whole. So, it is a general role.

Mr. Shibley: Yes. You will have to speak up.

Mr. Fleck: Sorry.

Mr. Chairman: Mr. Shibley, I wonder if I may interject for a minute? You mentioned the Cabinet responsibilities. Now, I was thinking last night, as far as the Cabinet oath of secrecy, I don't know what oath, if any, you are under that way. I understand the Cabinet ministers are sworn to secrecy in regard to Cabinet matters. Now, I know that you deal with Cabinet matters. If anything of that nature - questions - come along, ^{of the nature of} I would ask you to keep it in mind and then raise the point with me if you think

July 4/73
10:10 - 10:13 AM.
M.S.

(Mr. Chairman)

we are treading on ground there.

Mr. Fleck: All right. Thank you.

Mr. Chairman: I know that Mr. Shibley has spoken to you. I asked him to perhaps mention that to you, and I think he overlooked doing so, or forgot to do so. So, I'm just reminding you now. This initiates with me and nobody else, but I thought perhaps I should make some enquiries in regard to it. Are you under any other kind of oath, Mr. Fleck?

Mr. Fleck: Yes, I do attend Cabinet meetings.

Mr. Chairman: All right. Well then, if any questions of that nature come along, it will be up to you to draw them to our attention.

Mr. Fleck: Thank you.

Mr. Chairman: Sorry, Mr. Shibley.

Mr. Shibley: Not at all, Mr. Chairman. Just to clear that up however, Mr. Fleck. You and I have had two telephone conferences and one personal interview. Do I take it that in the ~~any~~ course of the exchanges between us that you have not been under any restraint referable to the oath in question, in the dissemination of information to me?

Mr. Fleck: That is correct.

Mr. Shibley: So that, what I'm driving at is that that oath, so to speak, did not get in your way so as to interfere with your ability to fully communicate to me the whole of what is your knowledge and information referable to the matters in issue before this committee?

Mr. Fleck: Correct.

Mr. Shibley: Yes. I just want to return and make it clear as a matter of record, Mr. Fleck, the identity you have, so to speak, with that of Premier Davis. Can I take it, from your last answer, that your position is such that you are aware of communications made by the Premier, whether written or in the course of meetings,

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July 4/73
10:10 - 10:15 am.
M.S.

(Mr. Shibley)

referable to Hydro's letting of this contract?

Mr. Fleck: Yes.

Mr. Shibley: And that your knowledge and information, at least for the period of time that you have been his executive, would be complete in that respect?

Mr. Fleck: Yes.

Mr. Shibley: When I later ask questions of what was known ⁱⁿ ~~of~~ the Premier's Office, or what was done by the Premier's office, or I may slip into saying, what was done by you, I want you to understand that by that form of question, I intend to encompass not only yourself, but such communications or information as may emanate from other people within that office, including the Premier himself. Do you understand that?

Mr. Fleck: I do.

~~Mr. Shibley: I am not sure that I understand that.~~

Tape H 906 follows

July 4, 1973
10.15-10.20 am
V.H.

~~(Mr. Fleck:)~~

~~7-8-73~~

Mr. Shibley: Now then, Mr. Fleck, would you also tell this committee what has been your training, your formal training, the experience you had prior to becoming the chief executive to the Premier, which I understand, incidentally, was early in 1972?

Mr. Fleck: Yes, it would be January 1. My appointment became effective January 1, 1972.

Mr. Shibley: January 1, 1972? Up until that date you had no connection whatsoever with the Premier's office?

Mr. Fleck: No. Other than I was prior to that date the executive director of the Committee on Government Productivity.

Mr. Shibley: Yes.

Mr. Fleck: That did bring me into contact with the Premier, especially I would say during the fall of 1971, in terms of how he would be structuring his office.

Mr. Shibley: Did you say you were a member or chairman of that committee?

Mr. Fleck: No, No. I was the executive director.

Mr. Shibley: I see. Executive director of that committee.

Mr. Fleck: That would be a full time role during the time it was in operation.

Mr. Shibley: And I gather therefore that you would have worked closely with Mr. ^CWronyn in that respect?

Mr. Fleck: Yes.

Mr. Shibley: Who was ~~chairing~~ chairing that committee?

Mr. Fleck: That is correct.

Mr. Shibley: But otherwise you had no connection with ~~the~~ government?

Mr. Fleck: No. That is correct.

Mr. Shibley: And did not hold your present position in the Premier's office?

July 4, 1973
10.15-10.20 am
V.H

Mr. Fleck: No. That is correct.

Mr. Shibley: Until that date? So then the committee can take it that whatever you are telling us as for the period preceding January 1972 is a matter of information on your part, whereas as to matters subsequent in point of time to January 1972 it could be a matter of knowledge or information?

Mr. Fleck: Correct.

Mr. Shibley: Now returning to your formal training and the experience you had before you took up the full time occupation with the committee, I think it would be of interest to this committee to know something of your history.

Mr. Fleck: Well, I was in business for myself for the period 1954 through 1960, ⁱⁿ manufacturing company called Fleck Manufacturing Limited in Tilsonburg, Ontario. In ~~1960~~ 1960 I went back to school, ^{to the} Harvard Business School, and obtained a doctorate in business administration there and I remained on the faculty of the Harvard Business School until 1966. I returned to Canada at that time as associate dean of the Faculty of Administrative Studies at York and was in that position until 1970 or late 1969 when I left to become executive director of the Committee on Government Productivity.

Mr. Shibley: What was the field of specialization in respect of which you took your doctorate and ~~where~~ were on staff at Harvard and at York Universities?

Mr. Fleck: Finance and business policy.

Mr. Shibley: And would it be part of that specialty to have an understanding of lease-purchase type transactions?

Mr. Fleck: Yes.

Mr. Shibley: And in particular the financial aspects of that type transaction?

Mr. Fleck: Correct.

Mr. Shibley: And also the method by which such transactions evolve in the sense of prequalification, etc?

July 4, 1973
10.15-10.20 am
V.H.

Mr. Fleck: I am not so sure about that, but certainly in terms of the financial ^{aspects} ~~importance~~ of it, very definitely.

Mr. Shibley: Now then I want to at the outset take you first to the spring of 1972 and ask you what was the first communication between anyone in the Premier's office and anyone on the part of Hydro referable to the contract for its head office building?

Mr. Fleck: So far as I know the first contact that I am aware of is that between Mr. Gathercole and the Premier at the ~~xxxxxx~~ Pickering opening, which I believe was in February 1972.

Mr. Shibley: Yes?

Mr. Fleck: The next then, the first one that I ^{sort of} was directly involved in, I was aware of the February, ^{one} but I am directly involved when I received a letter from Mr. ^{Gathercole} ~~Gathercole~~ in July of 1972 to which he attached a draft press clipping, or, press release I should say, that they were going to be issuing relative to entering into an arrangement with Canada Square.

Mr. Shibley: All right. Now, were you with the Premier at pickering?

~~xxxxxx~~

~~Mr. Shibley: I am not sure that the information~~

~~took place.~~

H-907 follows

MMX

H 907-1

July 4/73
10:20-10:25 am
PLG

~~(Mr. Shibley:)~~

~~Were you with him when he was talking to Mr. Fleck?~~

Mr. Fleck: Yes.

Mr. Shibley: And were you present when conversation took place between he and Mr. Gathercole or anyone at Hydro?

Mr. Fleck: I was present with the two of them. I do not specifically remember ~~the~~³ conversation on this subject at that time. I am sure that any conversation they had was on the run, in the sense that their activities that were going on at that time, reopening it. As far as I know they did not go off into an office or something of that sort, so it would be comments made during the events of the day.

Mr. Shibley: I want produced to you Mr. Fleck, Exhibit 34, dated March 9, 1972, which is a memorandum from Mr. Gathercole to Mr. Sissons. You will notice that in this exhibit Mr. Gathercole is instructing Mr. Sissons to the effect:

"I should like to make a submission to the Premier and other members of the Cabinet early in April."

He precedes that by saying he understands that Mr. Candy is assembling proposals from a number of prospective developers. Can you assist the committee as to whether anything emanating from the Premier in February of 1972 had to do with the instructions from Mr. Gathercole to Mr. Sissons, as evidenced by that exhibit?

Mr. Fleck: No. Not that I am aware of, and I should be aware ~~as~~^{if} if there was such an occasion.

Mr. Shibley: In any event, taking it chronologically, at this point in time we have the ~~the~~^{the} Pickering get-together, the March 9 memorandum asking for the preparation of material necessary to make this submission to the Premier early in April. I should tell you also that there was a memorandum, which is Exhibit ~~is~~^{is} a memorandum dated April 10, 1972, which is the Candy-Mink memorandum, being Exhibit 67. I ask that that be produced to the witness.

H 907-2

July 4/73
10:20-10:25 am
PLG

(Mr. Shibley)

For your information Mr. Fleck, that memorandum is prepared by Mr. Candy and Mr. Mink of Hydro.

I first want to ask you, was a copy of that memorandum ever received within the office of the Premier?

Mr. Fleck: No it was not, with this one qualification: there is a document-- I am trying to think now -- of roughly that size ^{that} I remember seeing this year, that Mr. Candy may have left with me at some time, but certainly not in '72, This document was not received.

Mr. Shibley: It was not tabled with the Premier's office. Have you any information or can you assist us as to whether anyone in government received a copy of that memorandum in April, May, June or July of 1972?

Mr. Fleck: I do find it difficult to assist you there. Not that I am aware ^{of} ~~it~~ ^{it} in the Premier's office.

Mr. Shibley: All right. Now then, I next want produced to you Exhibit 40, dated May 16, 1972; and you will note Mr. Fleck, this is a letter from Mr. Gathercole to Premier Davis, dated May 16, 1972, and it reads:

"My trip to Japan ~~was~~ with the hon. Darcy McKeough. I reviewed with him the desirability of us proceeding as soon as practical on the construction of the Ontario Hydro office building. I pointed out, it was estimated that against renting office space, the occupation of ~~an~~ ^{own} office facility ~~would make sense~~

Tape 908 follows

July 4, 1973
10.25-10.30 a.m.
M.F.

H - 908 - 1

(Mr.Shibley)

~~it was estimated that acquiring office space the~~
~~occupation of an office facility~~ would enable Hydro to
save about one million dollars a year aside from the dis-
economies associated with trying to operate an organization
so widely scattered.

"D'Arcy indicated he was receptive and suggested we
start the governmental procedure ball rolling by having the
Ontario Department of Public Works review it. I will be
very pleased to have your advice" -
and then there is reference to other things at Pickering.

Have you seen this correspondence previously?

Mr. Fleck: Yes I have.

Mr. Shibley: Mr. Fleck, I put it to you that the
document is written in terms that suggest earlier communications
between Premier Davis and Mr. Gathercole with respect to the
Hydro head office building. It doesn't read as though it were
one of the first or an initiating type of correspondence. Do
you agree with that?

Mr. Fleck: Well I guess I would agree because I also
know that there was a communication between them at the Pickering
plant in February so that I don't find this inconsistent with
that.

Mr. Shibley: I realize that, Mr. Fleck. The point I
am making, however, is do you agree that the letter is written
in terms of "you know about the head office building we are
contemplating, I have now talked to the Hon. Mr. McKeough and
reviewed it with him, etc"?

Mr. Fleck: I guess I am trying - I want to be agreeable
but I am trying to see if that was

Mr. Shibley: You have been very agreeable up to this
point, Mr. Fleck.

July 4, 1973
10.25-10.30 a.m.
M.F.

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Mr. Chairman: Maybe a little wary when it comes to that.

Mr. Fleck: If you are asking me if I looked at the letter and thought that the person that received it may or may not have had previous conversations on the subject, at least the writer thought that he did, sure, but I am not sure that that would mean very much.

I wouldn't be able to put myself in the mind of the writer or put myself in the mind of the receiver in this case. I am aware that they had had previous contact so that - I will certainly support the notion that the receiver of this was aware of the building prior to receiving this letter.

Mr. Shibley: I am wondering whether the maintenance man has instruction to turn that on at key moments in testimony.

Mr. Bullbrook: I wanted to ask the witness if that happens at the Premier's office. How is the air conditioning up there?

Mr. Fleck: I ~~would~~^{will} tell you that in my office if I open the window I get the breeze if it is moving in the right direction.

Mr. Shibley: I can confirm that.

Mr. Fleck: It would seem to me that this type of letter would reasonably be between two people that had some knowledge of what was going on.

Mr. Shibley: Now the reference to Mr. McKeough is of interest. Why would Mr. Gathercole be reviewing the desirability of proceeding with construction of the head office building with Mr. McKeough?

Mr. Fleck: My guess would be, because I don't know the particulars, my guess would be that Mr. McKeough, of course, was Treasurer at that time, that we know that when Hydro were going to build the building previously it had been deferred and that one of the reasons, I presume the main reason, it was

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(Mr. Fleck)

deferred at that time ~~was~~ ^{had to do with the} financing of it, and as Treasurer of the province and therefore responsible for the borrowings of the province, and since the province does guarantee the loans of Hydro, it would be reasonable that he might ask Mr. McKeough.

I think the other reason would be that the two of them were on a trip to Japan at that time and so they certainly would have opportunity to.

Mr. Shibley: Was there to your knowledge or information any instruction issued to Mr. Gathercole to review the matter with Mr. McKeough?

Mr. Fleck: The only knowledge I have there would have been reading the transcript where Mr. Gathercole indicated, I believe, that that was his conclusion after his conversation with the Premier at Pickering - I believe. I was not aware of any instructions.

Mr. Shibley: All right. Now you mentioned that the province guarantees Hydro's loans and that in his capacity as Treasurer Mr. McKeough would therefore be interested in this contract?

Mr. Fleck: Well he would be interested in this sense. As I understand the type of proposal they were entering into it would not involve increasing the borrowings of the province so therefore it would not involve a guarantee.

Mr. Shibley: You are anticipating my very question - why would it be necessary to discuss it at all with Mr. McKeough having regard for the nature of the transaction?

~~Mr. Fleck: As I understand it, it would not involve a guarantee.~~

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~~...with Mr. McKeehan having signed the authorization of the transaction.~~

Mr. Fleck: Again, I can only speculate and that would be, I guess, that it would be possible for them perhaps to have built a building and to have borrowed. I mean, build it on their own and borrowed and that would affect the credit.

Mr. Shibley: Was this still an open question as at May 16th, 1972?

Mr. Fleck: That I don't know.

Mr. Shibley: You don't have any information?

Mr. Fleck: Again, I guess I really - it's later on that I become more familiar with the transaction.

Mr. Shibley: Well then, later on in the paragraph it talks about Darcy indicated that he was receptive and suggested that we start the governmental procedure ball rolling. Now, what is the governmental procedure ball and how do you make it roll?

Mr. Fleck: I sometimes wish I knew. I don't understand. I presume he is inferring here that there are some procedures that ^{one should} ~~once you~~ go through ^{and} you may as well get started ^{then} on. I don't understand this because it then goes on to say Public Works and I don't know why ^{it} they would have any involvement at all.

Mr. Shibley: That was going to be my next question also, Mr. Fleck. What would be the involvement of Public Works?

Mr. Fleck: I have no idea. To me,

Mr. Shibley: He puts an asterisk down below and he indicates that ~~it~~ means Ministry of Government Services. Does that add anything?

Mr. Fleck: Well that's the change - what was Department of Public Works became under the re-organization part of the Ministry of Government Services.

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Mr. Shibley: Yes. But you can't relate the

function of that entity with this contract?

Mr. Fleck: Because they are a separate agency

and so far as I know, Public Works or Government Services would not be involved in Hydro's contracts.

Mr. Shibley: All right. Well, then it goes on to

say by having them review "it" and what I'm wondering about is what is meant by the word "it"?

Mr. Fleck: I can't help. I mean, I don't know.

Mr. Shibley: You can't help? Would it be

the April 10 memorandum which is now before you?

Mr. Fleck: I really haven't a clue. I haven't

seen the April 10th memorandum before and even after having read that, whether that would be what is being referred to here I have no idea.

Mr. Shibley: I should tell you, Mr. Fleck, and

members of the committee will remember, that in the period April 10, 1972 to June 4th, I believe, 1972, there was a dearth of activity within Hydro referable to this project.

The first indication of renewed activity was that in early June they undertook, there is memoranda indicating that they were to prepare the material necessary for a commission meeting which ultimately took the form of the June 23 memorandum, and just having given you that ~~particular~~ particular chronologically, Mr. Fleck, what I want to know is this, Was the reason for the apparent lack of activity or one of the reasons for the apparent lack of action on the part of Hydro during the period April 10 to early June the fact that someone within government or in the Premier's office, was reviewing the April 10 memorandum?

Mr. Fleck: Well, I guess there I can only speak

for the Premier's office and we did not receive the April 10 memorandum and we certainly weren't ~~reviewing~~ reviewing it so there would be nothing in our office that would any way relate to the ~~April 10~~ April 10 memo and this would not, in my opinion,

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have reasonably been referenced to that since we didn't receive it.

Mr. Shibley: You realize ~~an~~


Mr. Genest: Mr. Shibley, I thought you should also point out that there was evidence that the Hydro were involved in the strike ~~an~~.

Mr. Shibley: Yes, I said "one of the reasons." ~~the~~

Mr. Genest: ~~an~~ that they were involved in negotiations which led to a strike at that time.

Mr. Shibley: Yes. I had mentioned this to Mr. Fleck previously, not in this evidence, but that's why I framed the question "was that one of the reasons?".

Now, I take you back again, however, to the March 9, memorandum, Exhibit 34. You'll notice that Mr. Gathercole says he wants to prepare a submission for the Premier, I think it says, in early April which would coincide with the preparation,



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(Mr. Shibley)

~~the date on the April 10 memorandum, and it occurs to me Mr. Fleck that it was the April 10 memorandum which was intended as the submission to the Premier which Mr. Gathercole on March 9 intended to make early in April. Yet you are saying that that document was never tabled with the Premier?~~

Mr. Fleck: That is correct.

Mr. Shibley: Nor anyone in your office?

Mr. Fleck: That is correct.

Mr. Shibley: Now then the letter goes on; "I would be very pleased to have your advice". First, Mr. Fleck, ~~was~~ *what* is the relationship between the Chairman of Hydro and the Premier of the province which would lead the Chairman of Hydro to seek the Premier's advice in this respect?

Mr. Fleck: Well maybe I can comment on the relationship as I understand it then.

Mr. Shibley: Yes.

Mr. Fleck: He of course is the head of the largest commission, part of the province, I believe employ~~ees~~ are roughly 60,000 people, borrowing at the moment roughly half a billion dollars a year, and the province, of course, providing the guarantee for those loans, so that it is an independent ~~yet~~ *and* very substantial operation in which in the past, my understanding is, and here I have no personal part of it, but in the past the Premier of the province and the Chairman of Hydro have had contact from time to time over issues that relate to Hydro. But I would say so far as I know not usually, not that I know of, relating to contracts of Hydro. In other words it would be more, for instance, the 500 ~~km~~ *KVA* line and the environmental questions, ~~and~~ *I mean* these are things that relate to other departments of government, ~~and~~ where there might be some contact and discussion at the policy level related to that. So in those areas it would seem to me reasonable that someone that is the head of a

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government emanation would have contact with the Premier.

Mr. Shibley: Did the Premier in fact respond to this request for advice?

Mr. Fleck: No.

Mr. Shibley: In any form whatsoever?

Mr. Fleck: There is no written reply and there is no recollection on my part at any meetings with Mr. Gathercole, and I would be present at those if there was any discussion of this particular subject.

Mr. Shibley: Was the letter acknowledged?

Mr. Fleck: No.

Mr. Shibley: Then, Mr. Fleck, you have already referenced the press release which was sent, and I ask that exhibit 41 be produced to you, being the covering letter to you from Mr. Gathercole.

Mr. Fleck: Yes.

Mr. Shibley: Do you recognize that?

Mr. Fleck: I do.

Mr. Shibley: Now then, again to fill in your information, Mr. Fleck, the meetings of the commission referable to the letting of this contract to Canada Square were on July 12, 1972 ^{when they} ~~before~~ authorized negotiations and July 19, 1972, when they authorized entering into a contract, subject to further matters being resolved. So to put it in the context of what was going on as between Hydro and the premier's office at this particular point of time, was the only communication received in the Premier's office referable to the decision making which was taking place in Hydro or the press release which accompanied the letter of exhibit 1, ---

(RECORDING EQUIPMENT BREAKDOWN)

H-911 follows

H 911-1

July 4/73
11:00-11:05 am
PLG

(Mr. Chair~~MAN~~

I will call the meeting back to order. Mr. Shibley.

Mr. Shibley: Mr. Fleck, before we went off the Hansard, I had been asking you about what contribution by way of advice, direction, information, review, or whatever, emanated from the office of the Premier which may in any way have affected the decision-making of Hydro during the period up to July 19, 1972 and I would ask you now to re-record your responses to me in that respect.

Mr. Fleck: My response was that I was not aware of any and if there were any I was sure that I would be aware of them, ~~but~~ other than the conversation that has been mentioned ^{at} ~~the~~ Pickering.

Mr. Shibley: Have you any explanation to offer as to why in the circumstance of the evidence as provided by the March 9 memorandum, that Mr. Gathercole intended to make a submission to the Premier early in April. Why that submission was never made?

Mr. Fleck: I don't know.

Mr. Shibley: And in the circumstance of the letter of May 16 to the Premier, requesting or referencing a suggestion by Mr. McKeough that the Department of Public Works review the matter and asking for the Premier's advice, why there was no such review undertaken by anyone on the part of government, and no advice emanating from the office of the Premier.

Mr. Fleck: No I don't know. I should say though that at this particular point in time, I myself am away for about a 10-day period in May of that year. In fact, I am in Japan but on a private matter at this particular point in time.

Mr. Shibley: Can you block out that 10 days precisely?

Mr. Fleck: That would be what year, we are in '72, it is a week-long convention in Kyoto, Japan and to the best of my recollection it is the week of the 8th, the 8th being a Monday, but that I am not back until some time late in the

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PLG

(Mr. Fleck)

week of the 15th. That is to the best of my recollection. I know that there was no response because I have ~~checked~~ ^{checked the} ~~checked~~ file since that time. I don't know why there was not but there was not. It may be that if I had been there and I am only speculating now, that there would have been an acknowledgment, LET US SAY,
~~But...~~

Mr. Shibley: Well I think what this committee is concerned with Mr. Fleck, is whether there was any contribution on the part of anyone in the Premier's office or for that matter, anyone on the government side, towards the decision-making which was taking place within Hydro up to July 19, 1972.

Mr. Fleck: My answer would be that as far as the Premier's office is concerned, there was none. As far as the rest of government is ~~concerned~~ concerned, to my knowledge there was none, and again I would think that ^{if} there were any, the chances are fairly good that it would come to my attention.

Mr. Shibley: And even though you were away within that 10-day period you have mentioned...

Mr. Fleck: I would cover the material.

Mr. Shibley: ..you would cover the material when you got back. You would fully inform yourself?

Mr. Fleck: That is correct.

Mr. Shibley: Of whatever had transpired ~~##~~ affecting the Premier's office during your absence. Is that correct?

Tape 912 follows

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~~(Mr. Fleck:)~~

~~you not back you would fully answer you~~

~~Mr. Fleck: That is correct~~

~~they of course have not answered~~

~~the Premier's office during your stay is that correct?~~

Mr. Fleck: That is correct.

Mr. Bullbrook: Do you intend to ask, Mr. Shibley, why no response? Or did you? I am sorry.

MR. Shibley: I think I asked him -----

Mr. Fleck: I do not know a reason for non response.

I can say that not all - it would not be a unique situation for there not to be a response.

Mr. Shibley: Why do you say that?

Mr. Bullbrook: Do you think he answered that question?

Oh, I am sorry -----

Mr. Fleck: I can think of letters that I have seen that may have asked for advice on something or may have asked, you know, that have written in such a way that ~~you might~~ that a response might have been solicited but that it might not be received.

Mr. Shibley: We can take it that when a letter is directed to the Premier he himself receives and reads it?

Mr. Fleck: He receives something like five to six hundred letters a week

Mr. Shibley: Well what I am concerned about at the moment is -----

Mr. Fleck: I am ^{sure} ~~certain~~ he would have read this letter because it is of course from the Chairman of Hydro; he would have read the letter, yes.

Mr. Shibley: And notwithstanding that he read it and noted the request for advice you say there was no response of any kind whatsoever

Mr. Fleck: That is correct.

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Mr. Shibley: Was it known within the Premier's office at that time that a decision was imminent on the part of Hydro to let this contract for its new head office building?

Mr. Fleck: Not that I am aware of. In other words not by me and again no discussion ^{with me} that would lead me to arrive at that conclusion.

Mr. Fleck: And in that context have you any knowledge or information as to the Premier's state of mind at that time respecting the anticipated letting of this contract?

Mr. Fleck: No. The only thing I would have there is that I think - and here I would be relating to something that I have read somewhere - that he had knowledge that ~~he~~ ^{of course}, he had knowledge that there was a building being contemplated and that would come through the February meeting, but I don't think to the best of my knowledge ~~that~~ ^{what} he would not be aware of the particular timing of the contract would be or how they were going about it or any of the details associated with it.

Mr. Shibley: Are you indicating by your last answer that the first indication to ^{Premier} ~~Mr. Davis~~ Davis that Hydro were contemplating a lease-purchase contract for their new head office building was as a result of discussions in February at the Pickering opening?

Mr. Fleck: That would be the first place that I am aware of it and in looking through the records and files and so on of the previous year to the extent that I am able to, I would indicate that I see no record of anything there.

Mr. Shibley: So that whatever was going on within Hydro up until the time of the February '72 opening at Pickering, all of that activity was not known by anyone ^{within} the Premier's office, including the Premier himself?

Mr. Fleck: To the best of my knowledge that is the situation.

Mr. Shibley: And you are speaking on the basis of

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(Mr. Shibley)

research into the files and records of your office?

Is that correct?

MR. Fleck: Yes, that is correct.

Mr. Shibley: And nothing you have heard or observed or read since July of ~~1972~~ 1972 leads you to any different conclusion in respect of the information or knowledge of the Premier in the period prior to February, 1972?

Mr. Fleck: Yes. The only one I can think of is that I read a story I think that was done on Mr. Moog in which, if I remember correctly, there was some reference to the fact that he had raised the subject at some time with Mr. Davis and then the subject had been dropped. I have no direct knowledge of that; that is the only bit of information that I know of that would in any way indicate any knowledge of the fact that they were ~~going~~ moving ahead with this particular project.

Mr. Shibley: When you say you read an article and he had raised it^{it} - do you mean the reporter had raised it?

Mr. Fleck: No, as I remember it and I am sorry I don't have it, I think it was an article in the Sun, ~~there were~~

Tape H - 913 follows

H 913 - 1

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11:10 - 11:15 am.
M.S.

(Mr. Fleck)

~~No -- As I remember it, I recall that Mr. Moog, according to the reporter, was involved in the case.~~ There were several so-called in-depth interviews, as I remember it, around that time with Mr. Moog. And in one of them, I can recall, Mr. Moog, according to the reporter, having raised with the Premier, in response to a question about "what are you doing" or something, the fact that they were involved in bidding on a Hydro building. And then the subject was dropped, as I remember the article. But I have no firsthand knowledge other than that, of that instance.

Mr. Shibley: All right. So that, from ~~your~~ your position within the ---

Mr. Fleck: I'm just trying to be complete there in terms of your question that ~~you~~ you were raising.

Mr. Shibley: Thank you very much, Mr. Fleck. The committee and myself appreciate that fact. I just want to make it clear now, from your position within the Premier's office and having regard for the reviews that you have effected right up until this morning of all sources of information available to you in that office, and having regard to the fact, I take it, that you have made an in-depth study of whatever information is available within your office. The only information you have been able to surface, as to the measure of knowledge ~~of~~ or information known to the Premier respecting Hydro's actions, up to February, 1972, was the reference in the newspaper article ~~to~~ which you have outlined. Is that correct?

Mr. Fleck: Correct.

Mr. Shibley: And notwithstanding that while this enquiry was pending, I take it that you have applied your mind to seek out any such information, you have developed no such information and no documentation which indicates communications between the Premier and Hydro, or communications between the Premier and Canada Square, in the period prior to February, 1972. Is that correct?

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Mr. Fleck: Relative to this building.

Mr. Shibley: Relative to this building. And if there was communication, the only information you have in that respect is the report in the Sun that Mr. Moog is said to have said, that he spoke to the Premier about it?

Mr. Fleck: I realize that's getting pretty remote, but that is the only evidence.

Mr. Shibley: All right. Now then, Mr. Fleck ---

Mr. Bullbrook: Mr. Shibley, do you intend to move on now from this particular ---

Mr. Shibley: No, not yet. I want to produce to you -- when I say, no, it may look like I'm moving on, because I'm going to another document, but it relates to the same topic.

Mr. Bullbrook: I won't interrupt.

Mr. Shibley: I want to produce to you Exhibit 42, which is a letter dated August 1, 1972, from Mr. Gathercole to the Hon. James Auld. And which appears to enclose the same -- Exhibit 42, August 1, 1972.

Mr. Bullbrook: It's the same thing.

Mr. Shibley: They're all the same. Which appears to enclose the same press release as you received in the earlier exhibit.

Mr. Fleck: Yes.

Mr. Shibley: I might tell members of the committee a similar release was sent to the Deputy Provincial Secretary for Resources, Dr. Reynolds. Now, Mr. Fleck, can you explain to the members of this committee why, in the circumstances that prevailed at this time, copies of the press release which were intended by Hydro, would be sent to various of the ministers of the government?

Mr. Fleck: I'm sorry. Why would they send them?

Mr. Shibley: Yes.

Mr. Fleck: Well, Mr. Auld would be the minister through whom Hydro reports to the Legislature. ~~and Dr. Reynolds is the~~

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~~through whom H.D.S. reports to the Legislature~~

Mr. Shibley: Yes?

Mr. Fleck: And Dr. Reynolds is the deputy provincial secretary for the policy field in which Mr. Auld's ministry resides and also was in my position with Mr. Robarts and, therefore, perhaps, I think had a close relationship with Mr. Gathercole; and I think it might be a combination of the two, I am not sure. I really don't know the particular reasons why they would. Mr. Auld would make, of course, eminent good sense, in the sense that he's the minister, and Dr. Reynolds would perhaps in his role as the deputy provincial secretary of that policy field.

Mr. Shibley: Now, when these press releases were received was it taken by the recipients of those releases, of those press releases, that the decision to go forward with the letting of this contract to Canada Square had already been taken?

Mr. Fleck: That was my ~~own~~ interpretation of the press release.

Mr. Shibley: So that in your mind as at the time you received your copy of that press release, which would be on or about July 21, the decision to let the contract to Canada Square had already been taken?

Mr. Fleck: In my mind the decision had. In the terms of the final crossing of t's and dotting of i's, that I am not aware of, but I read that as the fact that they have agreed to get together.

Mr. Shibley: And would it be fair to conclude that a similar mental posture would be adopted by other recipients of the press release?

Mr. Fleck: It would be fair, yes.

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Mr. Shibley: Yes. Mr. Fleck, would you explain to me then why, in the absence of any submission as intended by Mr. Gathercole, in the absence of any review as requested by Mr. Gathercole, in the absence of any advice from anyone within government respecting the letting of this contract, and having regard for the fact that when the decision was made press releases were submitted to the various people that are indicated, why there was no response on the part of anyone within government which ^{have} ~~may~~ ^{been} of assistance or influenced the decision making process of Hydro?

Mr. Fleck: Well, there are a lot of barrels in that question! Let's see if I can sort them all out! I guess ~~—~~ let me first talk about my reaction and that would be that there wouldn't ~~a~~ be anything unusual in it, in that I of course am aware of the relationship between Hydro and the government, am aware that when Hydro was set up there was a great desire at that time, as I think they put it, to keep Hydro away from the politicians, this going back to Sir Adam Beck and the notion of the independence of Hydro. I am also aware of the fact that they let hundreds of millions of dollars of contracts in a year with no government involvement of any sort. I think I was aware at that time, although I am sure that I was, about the deferral of the building during Mr. Robarts' time in office, and it would certainly seem reasonable to me that that had taken place. In other words, I would not see government ever initiating Hydro actions but it would be possible for me to see government providing advice that might lead to the deferral, let's say, of ~~the~~ Hydro action, or veto of ~~the~~ Hydro action.

Mr. Shibley: Yes I understand.

Mr. Fleck: But that would be the extent of it, so, again not having been aware of the memoranda that you are ~~not~~ talking about in April, or what was going through the minds of various individuals at that time, I saw nothing

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(Mr. Fleck)

of any special note in the press release. The fact that it would come to us would to me be quite normal, ^{sort of} keeping us informed.

Mr. Shibley: Would it not be normal or usual that ~~we~~ before preparing a press release, and even before the commission itself made a final determination as to letting the contract, that at least the minister responsible for reporting in the House would be consulted and informed as to what was going on?

Mr. Fleck: I don't think it would be necessary but it might be quite reasonable. ~~I don't see why it should be put~~

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11.30 - 11.25 a.m.
M.R.

(Mr. Fleck)

~~... I don't think it would be necessary, but it might be quite reasonable.~~ I mean, I find it very difficult to put myself in that ~~minister's~~ ^{Minister's} position and to understand the relationship between he and the Chairman.

I wouldn't find it unusual if he was informed but I would also find it not necessarily unusual that he wouldn't be because of the independence and with some of these boards, agencies and commissions often some of them make a great point of showing how independent they can be.

Mr. Shibley: On the other hand, in this particular case, requests were emanating from Hydro for involvement in the decision making process.

Mr. Fleck: But, again, you are asking me, I believe, about the other minister ...

Mr. Shibley: Yes.

Mr. Fleck: ... and I'm not aware of any of those because I ...

Mr. Shibley: I'm talking now about the Premier himself. Requests were emanating for advice so this was not a case of Hydro wanting to keep the politicians out of it, but rather a case where Hydro wanted to - it appears that they wanted to, at least elicit some indication of whether the politicians were favourably inclined and so on.

Mr. Fleck: The only place that I see requests, I guess, would be this government procedure ball rolling bit where, as I said, there was no advice provided.

Mr. Shibley: Well, I'm thinking also of the March 9 memorandum of Mr. Gathercole when he says, "I want to make a submission to the Premier and the Cabinet in early April".

Mr. Fleck: But he did not.

Mr. Shibley: And that's what I'm inquisitive about, Mr. Fleck. They, in fact, prepared an in-depth study dated April 10 and never seemed to employ that study for purposes of the submission, according to your testimony.

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Mr. Fleck: That is correct.

Mr. Genest: Well, Mr. Shibley, the evidence

indicates that no witness from Hydro has ever indicated that that was intended for the government, that Candy-Mink report.

Mr. Shibley: I realize, Mr. ...

Mr. Genest: It was intended for internal use, that's my understanding of the evidence to date.

Mr. Shibley: I appreciate your comments, Mr. Genest,

but I'm required to consider all of the circumstances, particularly the chronology of information and data produced as to whether there was an additional purpose for that document. I must say, I inferred from the fact that Mr. Gathercole, who holds the high position of chairman, had given instructions ~~in~~ on March 9 that he wanted to make a submission to the Premier early in April, that the April 10 memorandum, which is an in-depth study running to over 30 pages with appendixes and so on would be the very type of document intended for such a submission.

Now, I realize that it's capable of other

interpretations but that's what led me to the questioning and the other aspect that I must bring to the committee's ~~the~~ attention is that that memorandum of April 10 was only incidentally considered by the commissioners themselves in that it was never produced to them for study.

It was available only in the hands of Mr. Nastich at the meeting of June 29, Hydro people having produced a seven page memorandum for the commissioners themselves. So I am anxious to develop, as fully as I can, what purpose was intended for the April 10 memorandum.

And this witness has cancelled out the use of that memorandum for purposes of instructing anyone in the Premier's office. Is that correct?

Mr. Fleck: That is correct.

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M.R.

(Mr. Fleck)

~~I don't think it would be unusual that might be quite reasonable.~~ I mean, I find it very difficult to put myself in that ~~minister's~~ position and to understand the relationship between he and the Chairman.

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Mr. Shibley: I'm talking now about the Premier himself. Requests were emanating for advice so this was not a case of Hydro wanting to keep the politicians out of it, but rather a case where Hydro wanted to - it appears that they wanted to, at least elicit some indication of whether the politicians were favourably inclined and so on.

Mr. Fleck: The only place that I see requests, I guess, would be this government procedure ball rolling bit where, as I said, there was no advice provided.

Mr. Shibley: Well, I'm thinking also of the March 9 memorandum of Mr. Gathercole when he says, "I want to make a submission to the Premier and the Cabinet in early April".

Mr. Fleck: But he did not.

Mr. Shibley: And that's what I'm inquisitive about, Mr. Fleck. They, in fact, prepared an in-depth study dated April 10 and never seemed to employ that study for purposes of the submission, according to your testimony.

July 4, 1973
11:20 - 11:25 a.m.
M.R.

Mr. Fleck: That is correct.

Mr. Genest: Well, Mr. Shibley, the evidence

indicates that no witness from Hydro has ever indicated that that was intended for the government, that Candy-Mink report.

Mr. Shibley: I realize, Mr. ...

Mr. Genest: It was intended for internal use, that's my understanding of the evidence to date.

Mr. Shibley: I appreciate your comments, Mr. Genest, but I'm required to consider all of the circumstances, particularly the chronology of information and data produced as to whether there was an additional purpose for that document. I must say, I inferred from the fact that Mr. Gathercole, who holds the high position of chairman, had given instructions ~~to~~ on March 9 that he wanted to make a submission to the Premier early in April, that the April 10 memorandum, which is an in-depth study running to over 30 pages with appendixes and so on would be the very type of document intended for such a submission.

Now, I realize that it's capable of other interpretations but that's where we go to the questioning and the other aspect that I must bring to the committee's ~~the~~ attention is that that memorandum of April 10 was only incidentally considered by the commissioners themselves in that it was never produced to them for study.

It was available only in the hands of Mr. Nastich at the meeting of June 29, Hydro people having produced a seven page memorandum for the commissioners themselves. So I am anxious to develop, as fully as I can, what purpose was intended for the April 10 memorandum.

And this witness has cancelled out the use of that memorandum for purposes of instructing anyone in the Premier's office. Is that correct?

Mr. Fleck: That is correct.

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July 4, 1973
11.20 - 11.25 a.m.
M.R.

Mr. Shibley: Now, I don't want there to be any mystery about this line of questioning. I think it is very important for the committee to make up its mind what, if any, contribution was made by any member of government, including the Premier, respecting the decisions taken by Hydro for the letting of this contract.

And if, as it appears from this witness's testimony, that there was no contribution made, I think that is a very significant ~~and~~ circumstance referable to more than one of the issues upon which you have to deliberate.

Now, I want to - I'm still on the same topic, Mr. Bullbrook, and ~~this is the same line of questioning~~

H-916 to follow

B 116-

July 4/73
11:25-11:30 a.m.
PLG

(Mr. Shibley)

I will indicate when I am going to get up on it. I want to have produced to you your own reply, Exhibit 44, dated August 8, 1972, and this is, I think, your reply in response to receiving the press release. Is that correct?

Mr. Fleck: That is correct.

Mr. Shibley: Have you the original carbon copy?

Mr. Fleck: Yes, I do.

Mr. Shibley: May I have that produced please?

Members of the committee, I want you to know that among Mr. Fleck's documents which he reviewed with me, was a photocopy of the letter from George W. D. Davis to himself of July 21, 1972. There are on this copy initials at the top, W. G. D.-- that would be Premier Davis.

Mr. Fleck: That is correct.

Mr. Shibley: And the initials which I gather is your own. Is that correct?

Mr. Fleck: That is correct.

Mr. Shibley: And then on the bottom in handwritten note of August 8.

"Thank you for your note. The Premier will be interested in seeing it. I am sure, I am sure," and there is a change in it.

"While I am sure he wants to be kept informed" and there is another change.

"The judgment is supplied by the Commission. Sincerely." Now Mr. Fleck, that seems to be wording which is consistent with the wording of the actual letter of response. Is that correct?

Mr. Fleck: Yes.

Mr. Shibley: And.

Mr. Fleck: I am sure the letter was typed from that note.

Mr. Shibley: Yes. So we take it, your course was

H 916-2

July 4/73
11:25-11:30 a.m.
PLG

(Mr. Shibley)

you had received this copy or had a copy made, ~~you~~ drafted your answer to it right on the copy and it was typed and sent out?

Mr. Fleck: Correct.

Mr. Shibley: And that was done contemporaneously with the date of your letter?

Mr. Fleck: That is correct. A little before I believe, you will see "August 5" and then it is crossed out, with the "8" in my handwriting.

Mr. Shibley: I don't have copies of this, if the members want it photocopied, fine. I don't think it is ~~an~~ you do? ~~don't have it~~

Mr. Bullbrook: Yes.

Mr. Chairman: Then we should make ~~that~~ that an Exhibit and I believe it is number 176.

Mr. Shibley: Now dealing with your answer in that document, Exhibit 44, I want you to explain to the committee what you meant by the words, "I might add that while he wants to be kept informed, the judgment is supplied by the Commission".

Mr. Fleck: I think that Gathercole had used the word judgment in his note -- where is that -- ~~in that~~

Mr. Bullbrook: It is Exhibit 41, dated July 21.

Mr. Fleck: Oh yes, here we are. ~~Mr.~~ Gathercole had used the word 'judgment' in his note and I can only, I guess, surmise at this point that what went ~~thru~~ through my mind at that time was ~~and~~ just what I guess I have written, that ~~it~~ ^{while I} was ~~pleased to receive~~ the information ~~that~~ any judgment that would be supplied would be supplied by the Commission.

Tape H 917 follows

H 917 - 1

July 4/73
11:30 - 11:35 am.
M.S.

~~(Mr. Fleck)~~

~~any judgement that would be supplied would be supplied by~~

~~the Premier's office~~

Mr. Shibley: Well, were you talking about judgement referable to the decision to let the contract?

Mr. Fleck: Well, I can't remember how I interpreted the letter when I first read it. I don't know whether I related that to the contract, or related it to the timing of the release. Because careful reading of the letter would indicate that they're talking about - I interpreted it as talking about the timing of the release, but it may be that the first thought, on a quick reading, that went through my mind would relate to the contract. And it may be that that's what I had in mind when I wrote my reply. It was almost a ~~throw~~ throw away line. It wasn't something that required a great deal of thought at the time. Again, as I'm sure it can be aware, I would be writing quite a few letters and looking at quite a few items in a day, and I'm sure I just jotted this down in a few seconds.

Mr. Shibley: Well, you see, Mr. Fleck, Mr. Gathercole, when he wrote to you said, "We wish to insure this action is not in conflict with the Premier's judgement." And I want to be clear as to what you meant by the wording of your reply, because whether Mr. Gathercole was asking for the Premier's judgement as to the press release, or his judgement as to whether the contract, which was outlined in that release, should be entered into, is fairly important.

Mr. Fleck: Well, I would think that my first reading of it, I would have thought of the contract. And it is most likely with that in mind that I made the comment. I can't be sure of this, I'm just trying to refresh my own mind.

Mr. Shibley: I understand.

Mr. Fleck: I'm sure, on a second reading of that, I would then realize that it was the press release. And my own

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(Mr. Fleck)

recollection is that if I had been thinking only in terms of the press release, I most likely ~~would~~ wouldn't have bothered even making that as an aside.

Mr. Shibley: So, that if your comment that the judgement as supplied by the Commission relates to the press release, we are left with the rest of your answer as to the decision making, to the effect that, "I might add, that while he wants to be kept informed." Now, to what were you referring when you used that wording? Were you referring to the Premier's wish to be informed, as to the press release, or informed as to ¹ ~~the~~ what they were doing?

Mr. Fleck: Well, I would take that to mean, at that time, just to be kept aware of a final result in relation to this. In other words, if they decide to build a building, I'm sure he'd like to know about it

Mr. Shibley: I would like to produce to you, Mr. Fleck, Exhibit 59, which is a letter dated February 17, 1972, from Ellis-Don to Mr. Gordon. And ~~the~~ you'll agree, when you receive the document, a handwritten note on the upper left corner of that document.

Mr. Genest: What is the exhibit number? I'm sorry, Mr. Shibley.

Mr. Shibley: 59

Mr. Genest: Thank you

Mr. Shibley: February 17, 1972. Incorporated in that note; "Matter is in Chairmans hands" This, I might say, is a letter from Ellis-Don requesting an opportunity for a meeting and the notation by Mr. Sissons; "Nothing to be gained matter is in Chairmans hands". Now, Mr. Fleck, having regard for the circumstances, that in February there was one of what appeared to be very few communications between anyone in Hydro and the Premier, was anything known ~~in~~ in the Premier's office, in February, which

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11:30 - 11:35 am.
M.S.

(Mr. Shibley)

would help explain the meaning of the words, "the matter is in
the Chairmans hands"?

Mr. Fleck: No.

Mr. Shibley: Was there ~~any word~~ *any word*

~~office at that time of any word~~



Tape H 918 follows

July 4, 1973
11:38-11.40 am
11.35
V.H.

(Mr. Shibley)

~~that~~ in the Premier's office at that time of any difficulty with Ellis-Don?

Mr. Fleck: No.

Mr. Shibley: I am thinking particularly of the circumstance that Mr. Cronyn ~~has~~ has testified that in February of 1972, he received from Mr. Smith certain complaints with which I think you are familiar from the transcript?

Mr. Fleck: Yes.

Mr. Shibley: And at that point of time, Mr. Cronyn would have been chairman of the committee on ...

Mr. Fleck: On Government Productivity, yes.

Mr. Shibley: ... government productivity, you were executive director of that committee ...

Mr. Fleck: Correct.

Mr. Shibley: ... was there any communication through you or, first of all, was there any communication to you by Mr. Cronyn of the complaints of Ellis-Don at that time?

Mr. Fleck: No.

Mr. Shibley: And I am taking from that that there was no communication through you to the Premier of any of the complaints of Ellis-Don?

Mr. Fleck: None.

Mr. Shibley: Not at that time nor at any time?

Mr. Fleck: That is correct.

Mr. Shibley: All right. I would like to produce to you a memorandum dated March 23, 1972 exhibit 63. I don't know whether you have ever seen this memorandum Mr. Fleck but ...

Mr. Fleck: I have not.

Mr. Shibley: All right. This is a memorandum from Mr. Nastich to Mr. Mink of Hydro and I direct your attention to paragraph 3 wherein he recommends "that our substantiate report cover all relevant aspects and be looked upon in the same light as a lawyer's brief. I have asked Messrs. Dean

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11.35-11.40 am
V.H.

(Mr. Shibley quoting)

"and Mink to meet with Mr. K.H. Candy to develop a report outline which meets the above ~~the~~ objectives." It goes on from there. Now did anyone in the Premier's office have anything to do with Hydro undertaking the studies reflected by that exhibit?

Mr. Fleck: No.

Mr. Shibley: Nothing whatsoever?

Mr. Fleck: Nothing whatsoever.

Mr. Shibley: Now then, Mr. Fleck, in the month of July 1972, as I have indicated, there was a sequence which ran as follows and I am not suggesting by putting all this together that ~~these~~ they are in any way necessarily connected. But on July 12, 1972 there was a meeting of the commission, evidenced by exhibit 80, which I asked ^{produced} be ~~produced~~ to you. There was a letter written dated July 14, 1972 from Mr. Smith to Mr. Cronyn, and there was the meeting of the commission -- I am sorry, I ask that that be made available to you also.

Mr. GENGES : Which exhibit is that Mr. Chairman?

Mr. Shibley: That's exhibit 175 members.

Mr. Chairman: Which one are you asking Mr. Cronyn to ...

Mr. Shibley: I want him -- I want Mr. Fleck to have exhibits 80, ...

Mr. Chairman: Mr. Fleck, I am sorry.

Mr. Shibley: ... 175 and exhibit 84, the last being the advice of the commission respecting their July 19 meeting. Do you have those three documents?

Mr. Fleck: Yes. I do.

Mr. Shibley: I want, notwithstanding your general answer earlier, Mr. Fleck, to ask you particularly during the period of time covered by those documents ^{me} as has your research in the Office of the Premier uncovered any documents, any memorandum, ~~any information, of any kind which indicates~~ that

July 4, 1973
11.40-11.45 a.m.
M.F.

H - 919 - 1

(Mr. Shibley)

any information of any kind which indicates that the Premier's office was ^{in any way} involved in any activities that are disclosed in that documentation?

Mr. Fleck: None whatsoever.

Mr. Shibley: So that, to make it perfectly ~~clear~~ clear, on July 12 I might tell you that Mr. Gathercole also met with Mr. Smith at the instance of Mr. Ernie Jackson. There is nothing in the Premier's office connected with that event? Is that correct?

Mr. Fleck: That is correct.

Mr. Shibley: Was there ever any report, so to speak, or advice from Gathercole to the Premier respecting that meeting?

Mr. Fleck: No.

Mr. Shibley: Was there any information emanating from Mr. Jackson to the Premier's office respecting the circumstances of that meeting?

Mr. Fleck: No.

Mr. Shibley: Was there ever any communication between Mr. Barnicke and anyone within the Premier's office?

Mr. Fleck: No.

Mr. Shibley: When I say communication I mean oral or in writing.

Mr. Fleck: No.

Mr. Shibley: Maybe you can help us clear up Mr. Barnicke. Does he fill the description of a person close to the cabinet?

Mr. Fleck: I have never met Mr. Barnicke. I have only heard his name recently, and to the best of my knowledge he would not fit that description.

Mr. Shibley: Or high in the Progressive Conservative Party?

Mr. Fleck: He would not fit that description to the best of my knowledge.

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Mr. Shibley: Thank you. When, if ever, were you or anyone in the Premier's office first aware of the existence of the July 14 letter from Smith to Mr. Cronyn?

Mr. Fleck: I read it in the front page of the Toronto Star.

Mr. Shibley: And aside from your own reading of it, have you any knowledge or information that anyone else in the Premier's office, including the Premier himself, had any prior knowledge or information respecting that communication?

Mr. Fleck: I have no knowledge at all.

Mr. Shibley: I might say, Mr. Fleck, I am not through with the areas I have questioned you upon but I want to examine something further and while I am doing so, Mr. Bullbrook, if you want to pick up now I would like you to do so.

Mr. Bullbrook: Well I was called out for about five minutes and you might have covered it, I wanted to see if there was some explanation available through Mr. Fleck in connection with the first communication. I don't have the exhibits, but if you will bear with me I think we don't have to refer to them exactly.

The first communication from Mr. Gathercole was directly, in May, I believe, to the Premier. The July communication was directly to you. I am just wondering if there were any intervening discussions in connection with this matter between yourself and Mr. Gathercole which would have -----

Mr. Fleck: No, none.

Mr. Bullbrook: You don't know - and I realize it is difficult for you to read Mr. Gathercole's mind - but your evidence then is that there is nothing of a substantive ~~xxx~~ nature that you can help us with as to why ^{then} he writes to you rather than the Premier in addressing himself to the question of the Premier's judgment on the matter?

Mr. Fleck: Well it is conceivable - I don't know, I am

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PLG

Mr. Bullbrook: One would presume from your evidence then that Mr. Gathercole would now direct his communication to you because matters of this nature had been in your liason, rather than in liason directly to the Premier.

Mr. Fleck: I would say that that would be reasonable.

Mr. Chairman: Mr. Glen Hodgson.

Mr. R. G. Hodgson: Mr. Chairman, I wonder, had other documents been delivered to 20 Wilket Road, York Mills?

Mr. Fleck: Well that is my home, of course.

Mr. R. G. Hodgson: Yes.

Mr. Fleck: I don't know of any other documents from Hydro that were delivered to me at 20 Wilket. I have, from time to time, had documents delivered to me at my home, yes, usually because it is late in the day and the only way to get it and read it before the next day or something of that sort. It is not unusual.

Mr. R. G. Hodgson: Well I wonder if on Exhibit 41, up at the top right-hand corner, is that 1 o'clock?

Mr. Fleck: Exhibit 41? Sorry.

Mr. R. G. Hodgson: New H. O. building.

Mr. Chairman: That is the letter addressed to you of July 21.

Mr. Fleck: Yes.

Mr. R. G. Hodgson: Would that be the time received?

Mr. Fleck: I have no idea.

Mr. Chairman: Now that may be a notation. This letter comes to us from the Hydro file I believe.

Mr. Fleck: Maybe that is the number of the file, I don't know.

Mr. R. G. Hodgson: Well I just thought it was odd that this one was delivered to your home address when

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Mr. R. G. Hodgson: That's right. I was just trying to relate the two, because it seems odd that it would be delivered to your home address, unless it was ^{to} particularly bring it to your attention so that it would be brought to the Premier.

Mr. Chairman: Maybe you were playing hookey that day.

Mr. R. G. Hodgson: With regard to the letter ~~of~~
to Premier Davis from the Ambassador, did you check with the
Premier whether he had acknowledged a letter in your absence?

Mr. R. G. Hodgson: Would that file also indicate whether the Premier and Mr. Gathercole had been in a telephone conversation or conversation regarding the letter?

Mr. R. G. Hodgson: Thank you.

Mr. Renwick: Yes, I have two or three very ~~am~~ minor ones ~~am~~ that are perhaps appropriate. I don't want to delay Mr. Shibley.

Mr. Chairman: All right, if you will proceed Mr. Renwick and then Mr. Gaunt.

Mr. Renwick: Mr. Fleck, I believe I will have others later on in relation to these matters, but there are two or three matters that perhaps would help me. ~~See the letter of May 16~~

July 4, 1973
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M.F.

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(Mr. Fleck)

~~wasn't~~ trying to speculate, as I remember it the Premier
is not in the week of July 21, he is on holidays, and it may
~~that is why he said~~
~~me because by that~~

Tape H - 920 follows

H 920-1

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11:45-11:50 am
PLG

(Mr. Fleck)

~~the one that he is on holiday.~~ It may be that is why he ~~sends~~ sends it to me, or it may be he sends it to me because by that time I have had more contact with him than I ~~may~~ may have had prior to May. That's all.

Mr. Bullbrook: That is really what I am interested in Mr. Fleck. That is what I would have presumed and I think a reasonable person would presume. The first communication is directed to the Premier and advice is requested. There is no response to that. The next communication is directed to you and ~~his~~ judgment is asked for and you respond to that. Am I understanding ~~that~~ that there had been intervening discussions, perhaps of other matters, between yourself and the Chairman?

Mr. Fleck: Yes.

Mr. Bullbrook: Could you help us, without disclosing of course any confidences that you feel that you wouldn't want to disclose. Could you give us the general nature of those discussions?

Mr. Fleck: Well I think I can say that none of them are relevant to the issue involved. I guess just to give an example, let's see, I think the 500-kVa line in the Solandt commission was involved then. I think the ~~the~~ Beverley Street property and whether there was going to be a sub-station and there were complaints from ratepayers and so on. I think that may have been...so that there were items ... and of course there was the Task Force Hydro.

Mr. Bullbrook: I was interested in that. There had been discussion about Task Force Hydro I would think.

~~The notion of a Crown Corporation~~

Mr. Fleck: The notion of a Crown Corporation?

Mr. Bullbrook: Yes I believe so. Had been discussed at that time. I wanted to just clarify that and I...

Mr. Fleck: I can't be sure of that but I believe so. It was certainly under way at that time.

the letter of May 16 to the Premier, exhibit 40, on the file in the Premier's office?

Mr. Renwick: Is there any particular designation

Mr. Fleck: That I am not sure of. It is more

[illegible]

Mr. Fleck: Yes.

Mr. Fenwick. was there a notation of any kind

Mr. [redacted] said that [redacted] was in range to have

Mr. Renwick: You weren't present? Who would have

Mr. Fleck: Well, it might be a place to go if it could

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11.50-11.55 am
V.H.

Mr. Renwick: If you had been there you would have anticipate that a letter such as that would come to you first before it went to the Premier?

Mr. Fleck: Yes.

Mr. Renwick: But in your absence it might go to the Premier directly or to your number two man?

Mr. Fleck: Correct.

Mr. Renwick: Now when did you first see the letter?

Mr. Fleck: I don't recollect. It would be after I returned and going through correspondence that had been received.

Mr. Renwick: You had said that you would fully inform yourself on your return from your trip as to what had taken place and therefore you would ...

Mr. Fleck: I would go through my mail.

Mr. Renwick: ... and you know that you saw the letter at that time?

Mr. Fleck: I cannot with precision say that I am positive. I mean, I do not recollect having seen it at that time but I have certainly seen it since and it be quite normal that I would see it at that time, ^{BUT} ~~and~~ again I would see it ~~amongst~~ amongst a great deal of other correspondence.

Mr. Renwick: But you have no recollection that you did in fact see it at that time?

Mr. Fleck: No I have no present recollection.

Mr. Renwick: And that the first time you would have had occasion to have your mind directed toward that letter was as a result of these committee hearings?

Mr. Fleck: That is correct.

Mr. Renwick: Is there any indication, referring again to exhibit 40, there are two matters dealt with. One is the head office in the one paragraph and the second paragraph deals with the high voltage transmission line. Was there any response from the Premier or from the Premier's office dealing with the request of Mr. Gathercole in exhibit 40 for advice with respect to the high voltage transmission line?

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V.H.

Mr. Fleck: There was no response to this specific letter, no. That subject was at subsequent times discussed, but no response to this.

Mr. Renwick: That was not separately a matter of reply in connection with this letter?

Mr. Fleck: No.

Mr. Renwick: I have no further questions at the present time.

Mr. Chairman: Mr. Gaunt.

Mr. Gaunt: Mr. Chairman, Mr. Renwick asked most of the questions I had intended to ask but there is just one matter I was wondering about, ~~the fact that the~~

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11.55 a.m. - 12.00 noon
M.R.

(Mr. Gaunt)

~~...I had intended to ask Mr. Fleck, but when I was~~
~~wondering about Mr. Fleck~~ Did Mr. Rowan, to your knowledge,
ever discuss the contents of the May 16th letter from the
point of view of whether or not a reply would be given?

Mr. Fleck: That I don't know.

Mr. Gaunt: Have you ever discussed the matter
with Mr. Rowan?

Mr. Fleck: No. No, I have not, but I can very
easily, if you wish me to.

Mr. Gaunt: So that you

Mr. Fleck: Other than, I guess - excuse me - I
should qualify that to this extent, that I'm sure in going
over the correspondence upon my return this could easily
have been one of the items in there, but I have no recollection,
I mean, I have no specific recollection of having discussed it.

Mr. Gaunt: I understand. So that you're really
not aware of any discussions surrounding the letter of May 16th
by anyone in the Premier's office with the Premier himself,
as to whether a reply would be issued to that letter?

Mr. Fleck: No, I'm not aware of that.

Mr. Chairman: Mr. Shibley?

Mr. Bullbrook: Well may I, before you begin, I'm
sorry, Mr. Fleck, I just wanted to ask you in ~~some~~ connection
with what is now Exhibit 176, which ~~contains~~ contains the notes
that you made, I wanted to clarify in my mind - do you recall
that?

Mr. Fleck: Yes.

Mr. Bullbrook: The notes that resulted in your
response of August 8th as typed?

Mr. Fleck: Yes.

Mr. Bullbrook: Were those notes made on
August 5th, did you say, or on August 8th?

Mr. Fleck: Well, just because it has five under
there 9-0-7

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11.55 a.m. - 12.00 noon
M.R.

Mr. Bullbrook: Right.

Mr. Fleck: I presume, but I'm not sure, I presume that I ~~was~~ wrote it on the 5th but my secretary typed it on the 8th.

Mr. Bullbrook: Adapted it to the 8th.

Could you tell me whether the notes were made in the presence of the Premier?

Mr. Fleck: They were not made in the presence of the Premier.

Mr. Bullbrook: Not made. Did the Premier at all discuss with you the appropriate response to be made in connection with this?

Mr. Fleck: I ~~don't~~ do not believe so, at that time. That is, I think he was away and this I just did on my own.

Mr. Bullbrook: The initials W.G.D. - does that signify that ~~the letter~~ this letter had been brought to his attention?

Mr. Fleck: That would signify that I would most likely put another copy of that in a file to be sent to the Premier.

Mr. Bullbrook: Oh, I see. It doesn't signify that the Premier had seen this prior to its response?

Mr. Fleck: No, it indicates that I'm sending it to him. It is something I'm sending to him.

Mr. Bullbrook: And one other question, if I may: I take it from your evidence given to our counsel that ~~the~~ basically the initiation of correspondence by Mr. Gathercole, both to the Premier and other government offices, you feel was a natural and normal thing for him to do, in the context, for example, of Mr. Auld's responsibility of responding in the Legislature, Mr. Reynolds being in the resource development field, of which Hydro is ~~a~~ part, and of course, the Premier.

However, there was - and I apologize for being lengthy in my premise here - there was no response made by any one to

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M.R.

(Mr. Bullbrook)

what was an obvious request by Mr. Gathercole for advice in connection with the project itself until your response of August 8th, when you said that the judgement should be that of Hydro.

Now, I'm confused in this respect: I can understand that that would be a valid position, and I wouldn't take issue with it for a moment, in connection with the concept of whether a building should be built or not, but what about the fact that detail is given as to with whom the contract will be entered into and certain, at least, essential terms of the contract.

Did you feel that there was no input required by any office of government in connection with that?

Mr. Fleck: No, I didn't feel ~~that~~ there was any requirement for input.

Mr. Bullbrook: And ^{do} I take it, therefore, that really there was no great study made by the Premier's office as to the terms of the contract?

Mr. Fleck: That is correct.

Mr. Bullbrook: Right. Thank you.

Mr. Chairman: Mr. Shibley.

Mr. Shibley: Still dealing with the last exhibit

Mr. Fleck, Exhibit 176 ~~and~~.

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12:00 - 12:05 pm.
M.S.

(Mr. Shibley)

~~Exhibit Mr. Fleck, I think that's~~ Is the content of what appears to be part of a file. On the second page, which is your letter, on the very top are the printed words "Canada Square Corporation."

Mr. Fleck: Yes.

Mr. Shibley: Could you explain why that notation is made and who made it, ~~in~~ and the circumstances of its making?

Mr. Fleck: Well, it would be in the filing section. They would make it as their designation of the way in which they're going to file it. And then they may have cross-referenced it in other ways. Often a letter would have a main classification and then might have a couple of others, so it could be pulled together.

Mr. Shibley: This would be a file in the Premier's office?

Mr. Fleck: That is correct

Mr. Shibley: Designated as just "Canada Square Corporation," or "Canada Square re Hydro?" Or --

Mr. Fleck: Well, I can only surmise. And I haven't checked into this at all, since this is on there, that's what the filing clerk wrote on there and may just have taken it from the press release that that was the item that they ~~had~~ used as the main classification.

Mr. Shibley: Now then, that was my next question. When was it established as a separate file?

Mr. Fleck: That I don't know

Mr. Shibley: Were there separate files for each of the developers who made proposals?

Mr. Fleck: I don't know.

Mr. Shibley: To the extent of your research however, the only developer respecting whom there was a separate designation was Canada Square Corporation?

Mr. Fleck: To the best of my knowledge. Because that would be the ~~only~~ only one singled out.

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Mr. Shibley: Yes. On the other hand, you are not presently aware of the time when that, whether it was subsequent or prior in point of time, to the receipt of this press release?

Mr. Fleck: Yes, I don't know whether there was an existing file, or whether she created a file on getting it. That I don't know. I can find out.

Mr. Shibley: Over the luncheon recess.

Mr. Fleck: Sure.

Mr. Shibley: Because I am sure you are going to be with us this afternoon, could you investigate that?

Mr. Fleck: Sure.

Mr. Shibley: Thank you.

Mr. R.G. Hodgson: Mr. Shibley, before you leave that, on the 176 on the bottom there's a copy to Mr. Gathercole on May 29 (picked up) that isn't on the original Exhibit 44.

Mr. Shibley: Thank you. Mr. Fleck, perhaps you might explain the circumstances of sending Mr. Gathercole a copy of this letter of May 29?

Mr. Genest: Mr. Chairman, I can assist. I think that's the date on which we enquired at ~~the~~ this hearing as to whether there had been a reply. We couldn't find one in our files and we obtained one from Mr. Fleck's office. I think that's the reference because I think that's the date on which that occurred.

Mr. Renwick: That's '73.

Mr. Genest: That ~~is~~ ~~the~~ '73.

Mr. Shibley: Now, I was dealing with the events of July, and just to finish off, I had asked you whether Mr. Barnicke fitted the description ---

Mr. Renwick: I'm sorry, Mr. Shibley. Just on one point. Would Mr. Fleck also during the luncheon break find out what file Exhibit number 40 would be lodged in?

Mr. Gaunt: And just on that point, Mr. Chairman. Would Mr. Fleck be good enough to check with Mr. Rowan over the lunch hour

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(Mr. Gaunt)

to see if, in fact, he did discuss the matter with the Premier?

Mr. Chairman: All right. Let's give somebody a chance to make it known to the ---

Mr. Fleck: Will I have a chance to eat some lunch over the luncheon break?

Mr. Shibley: Why should you be different?

Mr. Chairman: Let's give an opportunity now. Let me start with Mr. Bullbrook. Have you requested anything from Mr. Fleck at noontime?

Mr. Bullbrook: Nothing, no.

Mr. Chairman: All right. Mr. Gaunt?

Mr. Fleck: Thank you, Mr. Bullbrook.

Mr. Chairman: Mr. Gaunt, you wanted him to check you're making a note of these, Mr. Moore? You wanted him to check with his second in command as to action in the interval when he was away. Is that right?

Mr. Gaunt: Yes, with respect to the letter of May 16.

Mr. Chairman: All right. Mr. Hodgson, did you have any requests?

Mr. G. Hodgson: No.

Mr. Chairman: Mr. Renwick, you had two requests I believe?

Mr. Shibley: Yes. He wanted the original^{cf} Exhibit 40 produced and reviewed by me.

Mr. Chairman: Original^{cf} Exhibit 40.

Mr. Shibley: And he wanted to know what file it was produced from.

Mr. Chairman: What file it was produced from.²


Mr. Renwick: What file it was produced from. I'm very interested in the questions which have already been noted.

Mr. Chairman: Now, those are the sum total to date. Is that right?

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Mr. Shibley: Mr. Fleck, I was going to ask you
about descriptions for a moment. ~~You said that the~~
~~did not fit the description~~



Tape H 924 follows

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12:05-12:10 pm
PLG

(Mr. Shibley)

You said that Mr. Barnicke did not fit the description in the April 30 article of the Globe: "A person high in the Progressive ~~Conservative~~ Conservative party and close to the Cabinet." Can you assist this committee as to whether Mr. Cronyn fits that description?

Mr. Fleck: Well in my view he would fit the description of close to Cabinet, in that I ~~know~~ know that he knows quite a few members of Cabinet. In my view he would not fit the description of 'high in the Progressive Conservative Party.'

Mr. Shibley: I want next produced to you, Exhibit 169, dated August 21, 1972, which is a letter from Ellis-Don to Mr. Seguin, one of the Commissioners of Ontario Hydro. You have examined it have you?

Mr. Fleck: Well I have skimmed it.

Mr. Shibley: Have you or anyone in the Premier's office, ever received a copy of that letter?

Mr. Fleck: No.

Mr. Shibley: Has anyone in the Premier's office ever been appraised of the ~~content~~ content of that letter prior to the convening of this committee hearing?

Mr. Fleck: No.

Mr. Shibley: When I say content, I am particularly interested to know whether anyone in the Premier's office knew of the complaints outlined in that letter from Mr. Smith to Mr. Seguin, prior to the convening of this committee hearing.

Mr. Fleck: No. Not that I am aware of.

Mr. Shibley: Have you any information as to whether ~~this~~ the complaints as outlined in this letter, were known to any other minister of the government?

Mr. Fleck: No. I have no such knowledge. I am not aware of ~~any~~ any other minister having this information.

Mr. Shibley: You are not.

Mr. Fleck: No.

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Mr. Shibley: You have never at any time observed anything, or overheard anything to indicate that they were, they or any one of them, was aware of either the letter itself, or the substance of the ~~complaints~~ complaints which are recorded therein.

Mr. Fleck: Not to my knowledge.

Mr. Shibley: I next want to refer you Mr. Fleck to what is Exhibit 88, dated August 25, 1972, being the news release as ultimately issued by Hydro. Have you seen this document before?

Mr. Fleck: I don't know. I have seen it. I would think I ~~must~~ must have but I don't recall.

Mr. Shibley: You will notice that there is a notation;
"Copy delivered to hon. A.B.R. ~~Lawrence~~ Lawrence, hon. J.A.C. Auld."
I don't know whose initials those are, do you?

Mr. Fleck: Sorry?

Mr. Shibley: You can't help me identify those initials?

Mr. Fleck: Initials in front of those names?

Mr. Shibley: Yes.

Mr. Fleck: They are the initials of those two individuals. A. B. R. ~~Lawrence~~ Lawrence...

Mr. Shibley: No. I mean the initial of the person who made the ~~note~~ note.

Mr. Fleck: Oh. No.

Mr. Shibley: Do you ~~know~~ know who it is?

Mr. Genest: Yes. I am told it is Mr. McCarter, who is Mr. Gathercole's Executive Assistant.

Mr. Shibley: All right. Now, why would copies of this release be sent to these two ministers? You have already indicated why Mr. Auld would have, let's deal with Mr. Lawrence.

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PLG

Mr. Fleck: Mr. Lawrence is the Provincial Secretary to whom Dr. Reynolds is the Deputy Provincial Secretary.

Mr. Shibley: Now can you assist the committee. Did the Premier's office get a copy of this press release?

Mr. Fleck: I am sorry, I can't. I do not have a copy of this one in my file that I have here. Now, it is conceivable that we might have gotten one and not have filed it, because we might not have made a distinction between the earlier draft one and the one that you have here, so I really can't be conclusive about that. I do not have one.

~~Mr. Shibley: Well, the document produced to you~~
~~Mr. Fleck, a document which is not an exhibit but which~~
~~was produced to me by Hydro, similarly dated August 25, 1972~~
~~and styled: "Suggested"~~

Tape H 955 follows

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M.F.

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~~between the supplier and the one that you have here
so I needn't be concerned about it. I do not have one.~~

Mr. Shibley: I see. I would like to produce to you, Mr. Fleck, a document which is not yet an exhibit, but which was produced to me by Hydro, similarly dated August 25th, 1972, and styled: "Suggested answers to questions that may develop following the distribution of news release on new head office building", and I ask that that document, Mr. Chairman, be made the next exhibit.

Mr. Chairman: Exhibit number 177.

Mr. Shibley: Have you ever seen a copy of that document before this time?

Mr. Fleck: I think I may have, but I am not sure when.

Mr. Shibley: Do you know whether this document was received in the office of the Premier on or about its indicated date, August 25th, 1972?

Mr. Fleck: I think I have seen this document at some time, but I am pretty sure that I have seen it sort of in subsequent discussions with Mr. Candy that took place in December I believe.

I would say, I am relatively certain, I am positive that I did not receive it at that point in time. I would certainly remember if I had

Mr. Shibley: Now then I might tell you, Mr. Fleck, or alert you to the circumstance that it has the self-same date as the news release ~~which~~ respecting which copies were delivered to Mr. Lawrence and Mr. Auld. Do you know or have any information as to whether these suggested answers to questions that may develop ~~from~~ part of the material supplied by Hydro to those two ministers?

Mr. Fleck: I have no idea.

Mr. Shibley: Mr. Genest can you enlighten us in that respect?

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12.10-12.15 p.m.
M.F.

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Mr. Genest: I am instructed, ~~that~~ Mr. Shibley, that ~~this~~^{is} was prepared at the same time as the press release, probably by Mr. Dennis Dack, I can confirm that more certainly, ~~who~~^{who} is in the public relations department of Hydro, for use by senior officers of Hydro in dealing with the press consequent upon the release of the press release bearing the same date.

I don't know if a copy of this was sent to Mr. Auld but I can find that out.

Mr. Shibley: I might tell you, Mr. Genest, that this was among the original set of documents, among the various sets, produced to me and on the occasion of my receiving this document it was stapled to the press release of August 25th, 1972.

Mr. Genest: I ~~will~~^{will} think that will be consistent with what I told you.

Mr. Shibley: And I want to know whether it was similarly part of the documentation that was submitted to the Hon. Mr. Lawrence and the Hon. Mr. Auld to assist - well for whatever purpose?

Mr. Genest: I will try and find that out. I am told the primary purpose is to assist senior officers of the company who might be questioned by the press following the release of the official press releases on the same day, but I will find that out and try and get that over the lunch hour.

Mr. Shibley: Mr. Fleck, my purpose in raising this document with you and at this time is to make it unequivocally clear that to the extent of your research to this point of time that as ~~at~~^{at} August 25th, 1972, it was not a document - I am not talking about the suggested answers which - have we made that an exhibit, Mr. Chairman?

Mr. Chairman: Yes, 177.

Mr. Shibley: That what is now exhibit 177, the suggested answers to questions ~~presented~~

July 4, 1973
12.15-12.20 pm
V.H.

(Mr. Shibley)

~~new exhibit 177 the suggested answers to questions...~~

Mr. Fleck: Is that this one?

Mr. Shibley: Yes. Was not received by the Premier or anyone in the Premier's office at about that time?

Mr. Fleck: That is correct.

Mr. Shibley: I would ask you to make a further enquiry over the recess, ~~this~~ ^{this} is one from me now, to make certain as to whether the Premier's office received a copy of the press release which is ~~an~~ ^{is} exhibit ~~88~~ ⁸⁸ and also whether accompanying that copy of that press release, the suggested answers of even date were part of the material?

Now, Mr. Fleck, again just to make it perfectly clear for the record, you have already said that the information outlined in the Smith letter to Seguin of August 21 was not known to anyone in the Premier's office at that time. ~~Yes~~

Mr. Fleck: Correct.

Mr. Shibley: Was there any step taken by anyone within the Premier's office to have the suggested answers to questions which are in exhibit 177 prepared in anticipation of difficulties with Mr. Smith?

Mr. Fleck: No.

Mr. Shibley: I am particularly concerned to ask you that for the obvious reason that these suggested answers were compiled within ~~four~~ ^{four} days of the date of the letter from Smith to Seguin. ~~And~~ not only are they prepared by Hydro, ~~but the answers may have~~ we don't yet know ~~firm~~ part of the material submitted to two ministers. I want to deal for the moment with the Ministry with which you are fully conversant, namely that of the Premier, and so as to be completely fair to you I want you to ~~and~~ ^{and} examine ~~in~~ ^{into} this question over the luncheon recess. So far as your present knowledge and information ~~are~~ ^{are} concerned, the Premier's office had no knowledge of the

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(Mr. Shibley)

complaints of Ellis-Don at that time, whether through ^{the} Seguin line of communication, about which there hasn't been any evidence that there was communication with the Premier, and no knowledge of it from any source. Is that correct?

Mr. Fleck: ~~Correct.~~

~~Mr. Shibley:~~ Mr. Shibley: And no effort by the Premier or anyone in his office to have answers to questions prepared as to the August 25 exhibit. Is that correct?

Mr. Fleck: Correct.

Mr. Shibley: But you are going to double-check?

Mr. Fleck: Yes.

Mr. Shibley: I want also produced to you exhibit 91, dated October 3, 1972. Perhaps before I leave that last exhibit I think I did ask you, did I not, do you have any information that either Mr. Lawrence or Mr. Auld or any Cabinet minister requested ^{the} ~~the~~ preparation of these answers?

Mr. Fleck: No. I ^{have} ~~had~~ no such knowledge.

Mr. Shibley: Also before I read that exhibit I might alert you, Mr. Fleck, to the circumstance that one of the questions it poses at the bottom of page 1 is: "Why was Canada Square Corporation selected?" I ask as part of your further investigation over the recess to ascertain again whether anyone within government brought about the posing of the question and the preparation of an answer in that respect.

Mr. Fleck: Fine.

Mr. Shibley: Thank you. Now going to exhibit 91, you notice Mr. Fleck that reference is made to Mr. Seguin's comments at a recent meeting.

Mr. Fleck: I am sorry. Which one are we on now?

Mr. Shibley: Exhibit 91, dated October 3, 1972.

Mr. Fleck: Ninety-one? Yes.

~~Mr. Genest:~~ Well, it's not my copy.

Mr. Shibley: Exhibit 91, October 3, 1972. It is a memorandum from Mr. Gordon to Mr. Gathercole.

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M R

~~I'm sorry, which was not the case.~~

~~Mr. Shibley: I have a memorandum dated 1972~~

~~Mr. Fleck: I have a memorandum dated 1972~~

~~Mr. Shibley: I have a memorandum dated 1972, the~~

~~memorandum from Mr. Gordon to Mr. Gathercole~~

Mr. Fleck: It's actually October 2 on mine and has "Received October 3".

Mr. Shibley: Oh, I'm sorry

Mr. Genest: And mine says - I have a memorandum ...

Mr. Shibley: October 3, you are quite right.

I'm showing signs of late nights.

Mr. Genest: How does it start, Mr. Shibley, because my 91 doesn't talk about Mr. Seguin?

Mr. Shibley: "Following Roger Seguin's comments at a recent Commission Meeting. . ." Have I got it wrong?

Mr. Chairman: No, that's my Exhibit 91.

Mr. Genest: Something wrong with my books.

Mr. Chairman: I think Mr. Fleck has the original there. That is, our original exhibit.

Mr. Shibley: You'll notice, Mr. Fleck, that it talks about the need to prepare a brief, effective statement on the rationale of Ontario Hydro's action with respect to the construction of its new office building. The idea was that we should only use this if the new building became an issue in the newspapers".

And then there is an attached draft statement. Do you have any knowledge or information as to the circumstances surrounding Mr. Gordon's suggestion in that memorandum to Mr. Gathercole that a rationale be prepared?

Mr. Fleck: No, I do not.

Mr. Shibley: Had you any discussion or had anyone in the Premier's any discussion with Mr. Gordon respecting Mr. Seguin's comments, on or about this time?

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M.R.

Mr. Fleck: I'm sorry, could you repeat that?

My mind wondered there for a minute.

Mr. Shibley: Had anyone in the Premier's office received any communication from anyone at Hydro at or about that time, as to Mr. Seguin's comments?

Mr. Fleck: No.

Mr. Shibley: So that you can't help us as to why, in point of time, it was not until October 3, 1972, that Seguin's comments gave rise to the suggestion that a rationale be prepared?

Mr. Fleck: No, I can't help you there.

Mr. Shibley: In that context, members of the committee, I just want to remind you that Mr. Seguin raised Mr. Smith's letter with the commission on September 1 and the suggestion that a rationale be prepared was not made until October 3, I'm sorry, October 2, 1972.

Mr. Genest: Mr. Shibley, Mr. Seguin also raised it at a commission meeting.

Mr. Shibley: Yes.

Mr. Genest: He raised it twice.

I think that was the evidence. There was a private meeting in the commissioner's office on September 1, at which Mr. Gordon or Mr. Sissons were not in attendance and then the matter was mentioned again at a later meeting of the commission later in September. I believe that is the evidence.

And that's what led to this memorandum.

Mr. Shibley: I think it was the same day, though.

Mr. Genest: The same day?

Mr. Shibley: Yes.

Mr. Genest: I apologize, my impression was that it was two different days.

Mr. Shibley: Well, my own impression, Mr. Genest, was that it was only raised on the one day. It may have been raised twice that day. Does your memory differ from ours in that respect?

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M.R.

Mr. Genest: I'm under the impression, although I haven't got your photographic memory ...

Mr. Shibley: Well, why don't you spend your lunch hours checking something?

Mr. Genest: All right. I'll check that.

Mr. Shibley: All right. At the moment, Mr. Fleck, again, I'm only concerned to ascertain whether anyone within government and particularly within the Premier's office, had anything to do as at October 2, 1972 with the concern within Hydro to prepare a rationale?

Mr. Fleck: Not in the Premier's office and not that I'm aware of.

Mr. Shibley: All right.

Mr. Chairman: Gentlemen, it's almost 12.30. I suggest that we adjourn now until 2.00 ~~o'clock~~ p.m. this afternoon. Unless I see any signs of objection from the committee members, we stand adjourned.

APPEARANCES

Committee members:	J.N. Allan
	J.E. Bullbrook
	I. Deans
	M. Gaunt
	L.C. Henderson
	R.G. Hodgson
	W. Hodgson
	J.P. MacBeth (Chairman)
	W. Newman
	J.A. Renwick
	G.W. Walker
Clerk of the committee:	Paul Moore
Committee counsel:	R.E. Shibley, QC
	J.P. Bell
Ontario Hydro counsel:	Pierre Genest, QC
	James McCallum, QC
Canada Square Counsel:	Douglas Laidlaw, QC
	Blair Cowper-Smith
Chief executive officer, Office of the Premier:	J.D. Fleck

List of exhibits introduced during this sitting appears on last page.

INDEX TO EXHIBITS

<u>Exhibit</u>	<u>Page</u>	<u>Description</u>
176	916-2	Correspondence between G.E. Gathercole and J.D. Fleck - July 21, 1972 and August 8, 1972
177	925-1	August 25, 1972 - "Suggested Answers That May Develop Following the Distribution of News Release on New Head Office Building"

1133

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Wednesday, July 4, 1973

Afternoon session

28-260

July 4/73
2:45-2:50 pm
PLG

Chairman: Gentlemen, I call the meeting back to order, and again turn it to Mr. Shibley.

Mr. Shibley: Mr. Fleck, before the recess you were requested to search out certain information and attempt to reach certain conclusions respecting certain of the documents which were referenced in this morning's evidence. Have you, in fact, carried out those undertakings?

Mr. Fleck: Yes I have.

Mr. Shibley: And dealing with them in the order in which they were presented to you, I believe the first matter was the establishing of a separate Canada Square file. What information did you elicit over the recess in that respect?

Mr. Fleck: I found out that there is at the present time, no file headed "Canada Square", but that what is done in the filing room, that they code what they consider to be the significant words, or several key significant words out of whatever it is that is being filed, and put it up in the upper right hand corner. Then, if there are sufficient items with those particular words up in the right-hand side, they would start a file. At this point in time they did not have -- maybe they will have in the future, but at this point in time they do not have a file on Canada Square, and the first item that they have is this July press ~~re~~ release. The other information related to that if it relates to these files again, was I think somebody raised the question as to whether there were files on the other people that bid on the particular contract, and that there is no file on Y and R, no file on Horizon. There is a file on Ellis-Don, but it has no relationship to this. It relates to some matter back in '71. There is a file in there with that heading on it, but there was no information related to this.

Mr. Shibley: Now because the document has ~~been~~ in bold print letters 'Canada Square', the one that was produced, is this part of a key word system for filing?

Mr. Fleck: The Canada Square would be in the sense that if they had several pieces that were in a ~~new~~ general file with that heading, then they would pull them together and create a separate file.

Mr. Shibley: All right. So that explains the wording on the document.

Mr. Fleck: ~~Some~~ Correct.

Mr. Shibley: Now then, with respect to the May 10 letter ~~was~~

Mr. Fleck: May 16?

Mr. Shibley: I am sorry, May 16 rather, yes. You were asked to check as to whether that letter was discussed with Mr. ~~Mr.~~ Davis, whether there was discussion in that respect between Mr. Davis and Mr. Gathercole, and whether there was discussion as between anyone on the part of government and anyone on the part of Hydro I believe.

Mr. Fleck: Yes.

Mr. Shibley: Now what information have you elicited in that respect?

Mr. Fleck: Well, that is perhaps where I ~~was~~ have a problem in that I have conflicting information, but the information that I have and the information from the Premier and the information from Malcolm Rowan, who is the other person involved in this, is that there was in fact, not such a discussion on this particular subject, but I have a marginal note written on the document that reads as follows, if I can just read it.

Mr. Shibley: Well, perhaps for the assistance of everyone, I have asked you to photocopy the original of the letter of May 16, 1972, from Mr. Gathercole to Mr. Davis, and

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PLG

(Mr. Shibley)

I would ask now that the original be made a supplementary exhibit, even though it duplicates in part the material already exhibited elsewhere.

Mr. Fleck: Could I just include now, there was another question raised about that letter and that was under what heading it ~~was~~ filed, and whether it had been filed under Canada Square. It was not. It was filed under the designation CMHEPC, which stands for Commission, Hydro Electric Power Commission.

Mr. Shibley: And whose file is that?

Mr. Fleck: That is the office of the Premier file.

Mr. Shibley: Yes. And from that file you have elicited the original of the May 16, 1972 letter?

Mr. Fleck: Correct.

Mr. Shibley: Mr. Chairman, I want the original document itself made an exhibit in this case. It is in the possession of Mr. Fleck, and perhaps Mr. Bell could provide you with a photocopy of it.

Mr. Chairman: And this will be exhibit 178.

Mr. Shibley: Yes. Mr. Fleck go ahead. You were^a going to read the notation on ~~this~~ this exhibit.

~~Mr. Fleck: I am going to read the notation on this exhibit.~~

Tape H 929 follows

July 4, 1973
2.50 - 2.55 p.m.
M.R.

(Mr. Shibley)

~~Go ahead, you were going to read the notation in this~~
~~statement.~~

Mr. Fleck: Yes, well, the notation as I read it has a heading June 9th.

"The Premier spoke with Gathercole a few days ago and confirmed that Government Services is the proper place to start."

Then there is another notation beneath that which I would refer to the second paragraph just to be complete, saying;

"Premier spoke to G" ^{that} would most likely be Gathercole, ~~and~~ "and policy submission sent to Cabinet", that would refer to the high voltage transmission line item.

Mr. Shibley: Now, just before you go on, Mr. Fleck, I think members of the committee should understand that on the original document, which is in front of me, everything is as per the reproductions with the exception only that the line to the right of the second paragraph is of a different colouring than the rest of the notations, being turquoise, if I may say so.

It may or may not be a matter of significance. I want to make it clear now what is your evidence in respect of the second paragraph, Mr. Fleck. Are you saying that the statement in that second part of that notation, "The premier spoke to Gathercole re policy ~~submissions~~ submission..."

Mr. Fleck: No. It says - I think it's "and policy submission".

Mr. Shibley: "And policy submission sent to Cabinet," that that notation relates to development on the extra high voltage transmission line from Nanticoke to the Pickering Generating Station?

Mr. Fleck: That's right.

Mr. Shibley: ~~And submission.~~ Is that right?

Mr. Fleck: Correct.

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M.R.

Mr. Shibley: And it does not relate to any discussion between the Premier and Gathercole respecting a policy submission, which was sent to Cabinet, referable to the head office building?

Mr. Fleck: That is correct.

Mr. Shibley: All right. And as far as you are concerned, is the difference in the one part of the overall notation, namely the difference in colouring in the line, of any significance?

Mr. Fleck: No.

Mr. Shibley: Who wrote out these notations?

Mr. Fleck: Malcolm Rowan.

Mr. Shibley: And who is Malcolm Rowan?

Mr. Fleck: He is my number two man.

Mr. Shibley: Right. Did you dictate these notations to him?

Mr. Fleck: Well, that's where we have a - the date is June 9th, which is a Friday.


Mr. Shibley: Yes.

Mr. Fleck: Now, it often is our custom late on a Friday afternoon to try and go through some of the accumulated material during that week and move them along, get them resolved. So, often we would have a stack of items and I would look at them and go over them with Malcolm and tell him what I thought the appropriate action was in a particular case and he would make a note and a letter would be drafted or whatever the case may be.

Mr. Shibley: Yes.

Mr. Fleck: So that the timing of the note would be consistent with that. I think I may also have added when we were talking briefly, in my diary on that date I show an unusual event taking place at 5.00 p.m. that day, which is ~~was~~ a tennis game.

So I have a little trouble there reconciling it, but it seems to me consistent that on a Friday afternoon this would



July 4, 1973
2.50 - 2.55 p.m.
M.R.

(Mr. Fleck)

be happening, and therefore, it is Malcolm's recollection and I'm sure he would be able to substantiate this to you, that these remarks would be made out of a conversation with me in terms of what would be the appropriate action in relation to this letter.

Mr. Shibley: All right. Physically, I want to process this letter as it would be processed through the Office of the Premier.

To begin with, on the top of the document there are initials M.R., C.M., H.E.D.C.,; what are those?

Mr. Fleck: Well, the M.R., I'm sure would be Malcolm Rowan.

Mr. Shibley: Yes.

Mr. Fleck: And it would mean that the letter had been directed to him.

Mr. Shibley: By whom?

Mr. Fleck: That I don't know. Most likely by the person that sorts the mail out.

Mr. Shibley: This would be before the Premier would receive it?

~~Mr. Fleck: To some extent, yes, but I'm not sure. In this case, I would say~~



H-930 to follow

July 4, 1973
2.55-3.00 pm
V.H.

~~Mr. Shibley: This would be a letter from the~~
~~Premier would receive it.~~

Mr. Fleck: In some cases yes, in other cases no.
In this case, I would say yes.

Mr. Shibley: So that the letter would be received
in the Premier's office and Mr. Rowan would be the first to
handle it?

Mr. Fleck: Well I am sure usually it would be
myself, but you will remember that I am away in Japan at
that particular point in time. I did ^{check} ~~make~~ those dates,
I think I mentioned that, and the period I'm away is the
period May 14 to May 24.

Mr. Shibley: All right. So during the period
this letter was received in the Premier's office, you
were away, and it would be received then by Mr. Rowan, and
what would he do with it?

Mr. Fleck: In this case, I don't know. It would
normally then fall into several categories, one category of
course, it would proceed on into the Premier. Another cate-
gory would be that it would go in a heading of items for
discussion with the Premier to find out what the appropriate
action may be. ~~A~~ ^{the} third category would be information of
the Premier, those things that don't appear to require action
but would be sent in to him, and there would be other items
that might be answered by us and then with an information
copy going to him at a later stage. This I am sure would
not fall into the latter category, and I am not sure whether
it was categorized. This is not a system that applies in
every instance, but it is usually what we are trying to do.

Mr. Shibley: Would the girl who sorts mail also
put ~~the~~ CM for committee, ^{HEPC} ~~Hydro~~ Electric Power Commission
and ~~the~~.

Mr. Fleck: Yes. That would, yes.

Mr. Shibley: Now it goes to Mr. Rowan and the
original copy I should have told you ~~the~~.

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V.H.

Mr. Fleck: ^{*I believe it*} ~~has~~ ^{*is*} the receipt on the back of it.

Mr. Shibley: Yes. On the back of this document ~~are~~ are the printed words, by stamp obviously, "Prime Minister's Office, Toronto, Ontario, 1972, May 18, am 9:24, received", so that would indicate that the document was received in the Prime Minister's Office on 9:24 in the morning of May 18; is that correct?

Mr. Fleck: That is correct, yes.

Mr. Shibley: Now then, returning to the face of the document, I should ask the members to underline the following portions that have ^{the} ~~been~~ overscript in yellow which is often now employed to emphasise the salient points of any document, which also probably did not come through on your photocopies. I will read it through:

"On my trip to Japan with the Hon. Darcy McKeough" is emphasised.

Mr. Bullbrook: Excuse me. I just want to have this correct. ~~Are~~ you reading to us now the parts that you

Mr. Shibley: I will indicate to you as I ~~read~~ ~~reach~~ reach the parts that are to be underlined. Please underline "Darcy McKeough" and I will continue: "I reviewed with him the desirability of us proceeding as soon as practical" ^{on the} and underline the words "construction of the Ontario Hydro office building". I think it is helpful to read the whole thing just for refreshing everyone's memory in any event.

"I pointed out that it was estimated that against ^{renting} ~~office~~ office space the occupation of our own offices, ^{facility} ~~building~~ would enable Hydro to save about \$1 million a year aside from the diseconomies associated with trying operate an organization so widely scattered. Darcy indicated that ..." and would you please now underline, "he was receptive and suggested that we start the governmental procedural ball rolling by having the Ontario Department of Public Works

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(Mr. Shibley quoting)

review it" End of underlining. "I would be very pleased to have your advice." Then on the next part, "I would also be glad to have your advice as to whether there are any" - and this part is to be underlined - "any further developments on the extra high voltage transmission line from Nanticoke G.S. to the Pickering G.S."

Now, Mr. Fleck, who would designate, as I have indicated, the portions of this letter which were considered salient?

Mr. Fleck: Well in that situation, I am sure Mr. Rowan would have made those.

Mr. Shibley: This is a method employed to bring up in sharp focus the content of a document somebody else is to read so as to relieve him of reading the whole document, the unimportant portions of the document? Is that right?

Mr. Fleck: Yes, but —

Mr. Shibley: In the case of the Premier, this is done *(well, let's just talk about this document —)* in the case of the Premier and with respect to this document, is that why this was done?

~~Mr. Fleck: Now, would back to the — Mr. Rowan would normally~~

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(Mr. Shibley)

~~the Premier and with respect to this document was that why~~
~~XXXXXXXX~~
~~this was done?~~

Mr. Fleck: If you could ask that of Mr. Rowan, it would not normally be the case. It would be done really for my information as much as for the Premier's.

Mr. Shibley: All right. Now just in order also to get your evidence as a matter of record referable to the second part of that notation, can we take it that the proposition, any further developments on the extra high voltage transmission line from Nanticoke to Pickering, was a matter in itself that is designated as important in this manner? Is that correct?

Mr. Fleck: Yes.

Mr. Shibley: And is your evidence to the committee that it would therefore require its own separate notation if a notation would be called for by reason of its importance?

Mr. Fleck: Correct.

Mr. Shibley: I am anxious, Mr. Fleck, that you direct your mind very carefully to the second portion of this notation because I had asked you earlier, as you will remember, whether there ever had been a submission to the Premier in terms of what Mr. Gathercole had indicated was his intention when he issued a memorandum in March saying that he wanted to make a submission in April?

Mr. Fleck: That is correct.

Mr. Shibley: You are telling this committee that in no way should this memorandum on this document be interpreted as being such a submission?

Mr. Fleck: Correct.

Mr. Shibley: And you are consistent in your evidence as given earlier that no such submission was made?

Mr. Fleck: That is correct.

Mr. Shibley: All right. Let's return to the upper portion of the document. It starts by a date of June 9th.

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(Mr. Shibley)

Now can you explain that date please?

Mr. Fleck: My belief would be that that date would be the date on which the conversation takes place between myself and Malcolm that leads to this notation.

Mr. Shibley: So that on June 9th you had dictated this notation to Malcolm?

Mr. Fleck: It wouldn't only be a dictation, it would be his summarizing what I had said rather than my dictating these specific words. At least that is the way we would normally be operating.

Mr. Shibley: All right. Then again to be precise, does the notation accurately reflect, in paraphrased form, what you said to Malcolm on June 9th?

Mr. Fleck: That is my problem because I have no recollection of having said that and it is not consistent with what I believe would be the appropriate thing to do, and it is certainly not consistent with what I understand the Premier would think would be the appropriate thing to do, so I can't explain it other than that.

In other words I wouldn't think that it would be - I can see how you might - I mean if I am not trying to find reasons why one might refer it to Public Works, I can think of credible reasons, but in my recollection I can think of no credible reason that relates to that specific point in time.

Mr. Shibley: Mr. Fleck, earlier you were giving testimony against the background of a copy of the self-same document. Is that correct?

Mr. Fleck: Yes. And I am saying that I would have had in addition to this original document there would have been prepared a photo copy that I would use as a working document. In other words that is often the procedure. The original would come in and go somewhere and I would work to a copy.

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Mr. Shibley: And in fairness to you I want it a matter of record that the document you were working to this morning as you gave your evidence was a photo copy of this document without annotations. Is that correct?

Mr. Fleck: That is correct. Now I did not have that with me this morning.

Mr. Shibley: Not at all?

Mr. Fleck: No.

Mr. Shibley: The only document you had was the one we presented to you?

Mr. Fleck: That is correct. So that I was working from the document you presented, but I worked on this on the basis of one that did not have it but I don't want to mislead and indicate that I had that this morning.

Mr. Shibley: Well let's be accurate again. The document that you were working to in preparation for giving your evidence this morning was a photo copy which was clean of any notations?

Mr. Fleck: That is correct.

Mr. Shibley: So that you gave your testimony this morning against that background?

Mr. Fleck: That is correct, but I also wouldn't want to mislead in the sense that I am sure that I have seen this copy with these marginal notes before.

Mr. Shibley: I realized ^{THAT} I was going to go to that.

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M.S.~~(Mr. Fleck)~~

but I also would want to defend, in the sense that I am sure
I have seen this copy with these marginal notations before

~~Mr. Fleck: I am sorry to hear that, Mr. Fleck.~~

I don't ~~think~~ there is any member of this committee that ~~doesn't~~
doesn't believe you're trying to be ^{as} complete and as accurate as
possible. I just want them to understand the circumstances against
which you gave your earlier testimony, so that they can be made to
understand it.

Now then, you have already mentioned having, at some
time earlier, seen this document and I would like to know the
circumstances of the occasion on which you had previously seen it.

Mr. Fleck: I believe it to be about a month ago, when
this was referred to, I believe, in some of the testimony before
this hearing. I believe Mr. Gathercole's testimony referred to
this letter. I had no recollection of it at that time and, in going
over that and other documents at that time, I know that I pulled
out the various items and went over these with Malcolm, in this
case. And I can remember seeing that. I can't remember taking
any particular note of it at the time, but I can remember seeing
it.

Mr. Shibley: All right. Now then, having seen it on --
I'm sorry. Let's go back for a moment. When was it that you last
saw the original document with notations?

Mr. Fleck: I also had this document, with the original
notations, among other material that I had. And I would guess that
I would have seen it, but not read it, if we can distinguish between
the two; ~~be~~ aware of having seen it, I would think, within a week.

Mr. Shibley: Of today?

Mr. Fleck: Yes. Knowing, and sort of rifling through,
that this is one of the items and remembering seeing marginals. I
know it was the original and not the photocopy. But the last time
I'm conscious of actually having gone through it would be a month
ago.

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Mr. Shibley: I see. When did you go through the file in question for the purpose of identifying those documents which were relevant to the issues before this committee?

Mr. Fleck: Well, this past weekend.

Mr. Shibley: Yes. And was the annotated document among the documents that you reviewed at that time?

Mr. Fleck: I'm sure it was in the material, because that's where I got it today. But I do not recall actually seeing it and thinking about those annotated remarks over the weekend.

Mr. Shibley: On the occasion when you reviewed the file, to elicit from it the documents which were relevant, did it occur to you then that you would be asked by me and others about what was meant by such things as "starting the governmental-procedure ball rolling" and why the Ontario Department of Public Works would be asked to review it?

Mr. Fleck: It did not. I was in my own mind, obviously improperly so, focusing ^{on} ~~from~~ the period from July on, because that's the period of time where I become aware and feel I have some sort of personal involvement and awareness of some of the events that have taken place. I am aware that, in my mind, nothing has taken place before that time, but I'm not aware of focusing on various items during ^a ~~that~~ time, and answering the types of questions as: "What did someone mean when they wrote something to somebody else?" So, I did not go through and say, "Now, what would 'procedure ball rolling' mean?" Correct, that was this morning that we discussed that.

Mr. Shibley: Well then, just looking at the upper portion of the notation: "Premier spoke with Gathercole a few days ago and confirmed that Government Services, the proper place to start." Would that be a significant item in your thinking as at the time you reviewed this file?

Mr. Fleck: I would have to say that it would be significant in the sense that it is related to the building. And

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(Mr. Fleck)

there are so few things that relate to the building, that
anything that relates to the building, one could consider by
one standard to be significant. ~~It was not significant in the
sense that my reading at that time, I said~~

Tape H 933 follows

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M.R.

(Mr. Fleck)

~~...for one standard to be significant.~~

Mr. Shibley: Yes.

Mr. Fleck: It was not significant in the sense that my reading at that time, I did not interpret it as - even though it says that and I realize this has some difficulty for me - as saying that it should be referred to Public Works because I thought it was exactly the opposite and any recollection I have would be the opposite. So that's why it didn't have any special significance to me.

I didn't think it was in any way related to the six questions that you had pointed me to but I would have to say it's related to the building. There are so few things that are related to the building that to segregate but one of them I would most likely include them.

Mr. Shibley: All right. Well, then, Mr. Fleck,

Mr. Fleck: But I also - if I can just add this - I also knew that this had been entered in evidence. I did not - I can say this, I did not consider ~~the~~ significant the annotation.

Mr. Shibley: When you gave your evidence this morning, can we take it that until you were asked whether the original had any annotations, you did not then have any recollection of such annotations?

Mr. Fleck: That is correct. It was when Mr. Renwick said were there any notations on it that the image flashed before my mind, I guess, of the earlier document and saying there is something on there and I had better check that and, of course, with the help of the committee, the checking was even more complete but I mean that I'd better go back and have a look at that during the break.

Mr. Shibley: All right.

Mr. Bullbrook: How is security in the Premier's Office? How do you get this information?

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Mr. Chairman: That ~~was~~ thought flashed through my mind too.

Mr. Fleck: But it was as a result of that ~~is~~ that question was what triggered ...

Mr. Renwick: Appoint another committee to look into it.

Mr. Chairman: That will be next summer's job.

Mr. Shibley: All right, Mr. Fleck, now, I'm sorry to put you through all that but I thought it was important because I wanted the committee to understand that they should not translate your earlier evidence into something which affected your absolute credibility before the committee.

Mr. Genest: Mr. Shibley, I think this inquiry has taken a lot out of you. I can't hear you at all.

Mr. McCallum: Probably taken some out of you too.

Mr. Shibley: You should only know what it has done to my marriage.

Mr. McCallum: Go ahead. Tell us.

Mr. Shibley: You want that the subject of an inquiry?

Mr. Chairman: We might have to call your wife. You had better not.

Mr. Shibley: Mr. Fleck, I'd like now to direct your mind to the content of the first portion of the notation which is relevant to this inquiry.

Mr. Fleck: Yes.

Mr. Shibley: And it does now indicate that the Premier spoke with Mr. Gathercole a few days ago, which would be a few days prior to June 9th?

Mr. Fleck: That would be my interpretation, yes.

Mr. Shibley: Now, then, so that when you said earlier there was no response to the letter as such ~~was~~

Mr. Fleck: Correct.

Mr. Shibley: That was your recollection as of this morning, having ~~you~~ had your recollection refreshed by this

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(Mr. Shibley)

memorandum, what have you to say?

Mr. Fleck: Well, my recollection even after seeing this, is the same, in that I do not believe that the Premier did speak to Mr. Gathercole and did suggest that this should be referred to Public Works.

I have asked him whether he has any recollection of that and he does not.

Mr. Shibley: Before you go on, you've got to identify these "he's".

Mr. Fleck: The "he" is ~~see~~.

Mr. Shibley: Now, you ~~was~~ asked whom?

Mr. Fleck: The Premier.

Mr. Shibley: Over the recess?

Mr. Fleck: That is correct.

Mr. Shibley: You asked him what?

Mr. Fleck: I asked him - I said that there was this note on the document and that it indicated that he had spoken with Mr. Gathercole and that I could not remember having relayed this but did he have any recollection because, again, I was back by the June 1st, which would be the most likely time, but did he have any recollection of having ^{spoken} ~~said~~ to Mr. Gathercole about this matter, and he said no, he did not. In fact, he was sure that he had not and I also know, as I said, I can think of credible reasons why one might.

But so far as we know, he did not, and so far as I know, he did not, which makes it difficult for me to understand how Malcolm and I could come up with this particular notation .

✓

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PLG

(Mr. Fleck)

~~make it difficult to understand and hear~~
could come up with this particular notation, and I realize that's difficult, but I don't know how I can say otherwise if that is not the case. I am trying to be as factual as possible in this particular situation.

Mr. Shibley: I realize that. The very fact that you are not attempting anything but an explanation that is difficult to understand makes it even more obvious that you are attempting to tell us exactly what your recollections are.

Mr. Fleck: That is not too much consolation.

Mr. Bullbrook: It is novel and refreshing too!

Mr. Shibley: Mr. Fleck, so that to make the record clear, the Premier has ~~no~~.

Mr. Renwick: Mr. Shibley, the competition is ~~not~~ *here*!

Mr. Shibley: So as to make your evidence clear, Mr. Fleck, the Premier has told you over the luncheon recess that the notation is incorrect, that he in fact had not spoken to Mr. Gathercole on June 7 ~~and~~.

Mr. Fleck: No. A few days prior to June 9.

Mr. Shibley: Which would be June 7.

Mr. Fleck: Oh, well I won't debate that. I think if it was a time, it would most likely -- there is a meeting on June 1 that we can.

Mr. Shibley: I realize that. All right, let's go back. The Premier has confirmed to you over the luncheon recess that he did not speak to Mr. Gathercole a few days prior to June 9 with respect to the Hydro building.

Mr. Fleck: Correct.

Mr. Shibley: Did he speak to him with respect to any matter a few days prior to June 9?

Mr. Fleck: June 1st.

Mr. Shibley: Well would you consider that a few days prior to June 9?

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PLG

Mr. Fleck: Yes.

Mr. Shibley: All right, what was the occasion of a discussion between the Premier and Mr. Gathercole on June 1?

Mr. Fleck: Well on June 1 the Premier had a meeting with Mr. Gathercole from 11:15 to 11:45 that morning and the subject of discussion at that time was the Task Force Hydro report. I have a notation here on July 17 for "Hydro Cabinet, a.m."; and then I have "George gives views more specifically to TFH," which would be Task Force Hydro; so that I know there was a discussion relating to recommendations of Task Force Hydro, I know that the chairman of Hydro had some views on that that he expressed to the Premier at that time and I know that the Premier asked him as I think he already had, but he just sort of reinforced this, asked him if he would also be sure to make his views known to the Task Force so that they would have a chance at the presentation on July 17 to react to his views. That was the subject of that particular meeting, and as I say, I was present, made those notes, and again have no recollection of any discussion of the building at that time.

Mr. Shibley: So that can we take it that from discussions you have had during the recess with the Premier and from an examination of all records available to you, the only discussion between Mr. Gathercole -- I am sorry, the Premier and Mr. Gathercole -- prior to June 9, and let's say within the month of June, was referable to Task Force Hydro on June 1 as you have indicated?

Mr. Fleck: Correct.

Mr. Shibley: And it was no part of that discussion to review or consider or take up any aspect of the letting of the contract for the new head office building.

Mr. Fleck: That is correct. Now I should also add,

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PLG

(Mr. Fleck)

so that you are familiar -- I called Mr. Gathercole during the noon break and said - read him the same postscript and said; "Do you have any recollection of any conversation relating to this?" and his answer was "no" again. I am trying to show that I tried to do a little checking as well, and also of ~~course~~ course, the other part would be whether there in fact had been any reference to Public ~~Works~~ Works, because again if Gathercole had spoken to the Premier and if the Premier had said "refer it to Public ~~Works~~ Works", then I presume it would have been referred to Public ~~Works~~ Works, but I have no record ~~and~~ that that happened. In fact, it was not referred to Public Works.

~~Mr. Fleck, I have no record of that~~
~~Mr. Fleck but in fact it was~~



Tape H 935 follows

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3.20-3.25 pm
V.H.~~(Mr. Fleck)~~~~is that because it was not first referred to Pickering's Works.~~

Mr. Shibley: Well I was going to get to that, Mr. Fleck. But just taking ^{it} one step at a time, we have covered together the results of your exchanges with the Premier and Mr. Gathercole ~~and~~

Mr. Fleck: Yes.

Mr. Shibley: ~~and~~ referable to any meetings.

Mr. Fleck: Yes.

Mr. Shibley: Can I take it, with the committee, that your evidence of this morning respecting communications between Hydro and the Premier remains constant ~~a~~ then as to the communication at Pickering in February ~~and~~

Mr. Fleck: Yes.

Mr. Shibley: ~~and~~ and not again with respect to the head office building until the July press release? Is that correct?

Mr. Fleck: That is correct.

Mr. Shibley: And what you are saying ^{is} ~~that~~ ^A this memorandum on this document is wholly incorrect?

Mr. Fleck: And is inconsistent with what I have said.

Mr. Shibley: Yes, I think we all realize that!

Mr. Fleck: I do too.

Mr. Shibley: All right, Mr. Fleck. Not only is it inconsistent with what you said this morning in terms of what was done, but you said this morning that it would not be proper to refer the matter to Minister ^{ry} of Government Services?

Mr. Fleck: That is correct.

Mr. Shibley: An ~~ing~~ incongruous thing to do in the circumstances?

Mr. Fleck: Excuse me, I think I said I can think of some credible reasons for referring it there, ~~and~~ could I give an account of that?

Mr. Shibley: Sure.

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V.H.

~~XXXXXXXXXXXXXXXXXXXX~~


Mr. Fleck: One would be that there was under contemplation at that time a fairly major development ^{the} so-called ~~the~~ East of Bay Development, and this building of course was going to be directly opposite the Legislature Building. There could be some concern about the aesthetic harmonization ^{of} the total complex. I can also think that there is a reference in the letter to, the problems, "the diseconomies associated with trying to operate an organization so widely scattered;" ~~XXXXXXXXXXXXXXXXXXXX~~ and that there might be some problems associated with bringing all the parts of Hydro into this one building and it may be that one would want to get some advice from Public Works because they have dealt with a similar type ^{problem,} ~~XXXXXXXXXXXX~~ that type of advice.

I can think conceivably that it might be conceivable that, ^{you} I don't know whether Public Works have had that much background in lease-back but it is conceivable that they might want to get some advice, let's say, on the type of contract they would be giving. So I can ^{think} ~~think~~ of what I would consider to be credible reasons in that sense, but in terms of referring it as an issue, in terms of something that Public Works would become involved in in any operational sense, the decision making, to me doesn't make sense and isn't consistent with my own understanding and isn't consistent with the present practise of government.

Mr. Shibley: In the light of that last answer, Mr. Fleck, what I am having difficulty with is this, I can well imagine you dictating a memorandum ^{dictate.} ~~dictate~~

Mr. Fleck: I usually don't ~~dictate~~ I guess that's why I want to get off. I am not giving him verbatim, word for word.

Mr. Shibley: All right. I can well imagine you commenting upon the purposes of recording to Mr. Rowan in terms that are consistent with your thinking of what should have been done ^{even} ~~and~~, although it was not what the Premier had



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V.H.

(Mr. Shibley)

→ said had happened and should be done. But what I am having difficulty with is your dictating to him - I'm sorry - your stating to him ~~and~~

Mr. Fleck: Or his interpreting from my comments.

Mr. Shibley: Yes. His interpreting from your comments a conclusion or statement of fact which is inconsistent ~~and~~

Mr. Fleck: Yes.

Mr. Shibley: ~~and~~ not only with what had actually taken place but inconsistent with what you would have then considered appropriate.

Mr. Fleck: And not only that, as you may find out, but inconsistent with what he would think was appropriate because he had worked for me on ~~the~~ C.O.G.P. and this again relates to that. So it's a difficult problem. And I unfortunately do not have a recollection of the conversation.

Mr. Shibley: But you and Mr. Rowan are consistent in this respect, that you did have a conversation with him to the effect of what is recorded in that notation?

Mr. Fleck: Well we must ^{have} I mean I have no recollection of it, but again I can't imagine that this would just appear out of nowhere. ~~the conversation was not recorded~~

~~this was not recorded~~

H-936 follows

July 4, 1973
3.25-3.30 p.m.
M.F.

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(Mr. Fleck)

I was wondering, you know, when I first read this I was thinking maybe I was away then and maybe this was a conversation that he had had with the Premier. But I am not away then, I am back, and it is a conversation that he is very clear in his mind he had with me, and that was one thing I was trying to get cleared up in my mind.

Mr. Shibley: Did you have a conversation with the Premier on or about June 9th referable to the Hydro head office building?

Mr. Fleck: I have no recollection of having had such a meeting. In fact, I don't even, as I think would be consistent with my testimony this morning, I have no recollection at this point ~~about~~ in time of actually discussing or seeing this letter back in May.

I do have, of course, the recollection that comes out of it appearing in testimony and looking at it after that time, and I am sure that I must have seen it then, I am not in any way saying that I didn't. I am just saying that you get many items and some stick in your mind and others don't.

Mr. Shibley: What I am trying to elicit from you is what provoked this exchange between yourself and Mr. Rowan on the 9th of June?

Mr. Fleck: I am sure that most likely what would provoke it would be he would hand me this letter or I would be working from the photo copy and he would have the original, let's say in this case, and he would say "well what do we do about this?"

Mr. R.G. Hodgson: Mr. Shibley, I wonder if it is possible that Mr. Rowan put the note there after talking to the Premier in the absence of Mr. Fleck?

Mr. Fleck: No, but the thing is Mr. Fleck is not absent, Mr. Fleck is very much there.

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Mr. R.G. Hodgson: No, but he does know that he talked to Mr. Rowan with regard to the notation.

Mr. Shibley: Mr. Hodgson, I think this witness's present evidence is the net result of a review of the circumstances surrounding the making of these notes, not only between himself and Premier Davis, but as between he and Mr. Gathercole and he and Mr. Rowan. Am I not right, Mr. Fleck?

Mr. Fleck: That is correct.

Mr. Shibley: So the testimony you are now giving is ~~is~~ so to speak a consensus of the evidence from all sources that might contribute?

Mr. Fleck: Correct.

Mr. Chairman: Did we establish that that is Mr. Rowan's writing?

Mr. Shibley: Yes we have, Mr. Chairman. Now then Mr. Fleck, you will understand the concern that evolves from the fact that a document containing notations was among documents you reviewed and overlooked as relevant for the reason that the document itself had been produced but had been produced without such notation.

I am going to ask you therefore to go back following your testimony on this occasion, and exhaustively examine all of the source material in the office of the Premier, and against the background of what you, I hope, will now better understand, and certainly by the end of your examination will better understand to be relevant to the issues before this committee, to elicit therefrom any additional documents which you may come upon whether they be similar to those already produced but with annotations, or additional documents not already produced, to this committee.

Mr. Fleck: Yes. I had already had it in my mind that I would be doing that in any event.

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M.F.

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Mr. Bullbrook: I want to interject if you will permit me, and I want to preface my comments in this that I join with our counsel in connection with accepting wholeheartedly the most difficult explanation of Mr. Fleck. I want you to know, Mr. Fleck, we have great admiration for you.

The twofold things that counsel brings up: One, the conversation that takes place; secondly, that had the conversation taken place you wouldn't have agreed with the conversation if it had taken place from a point of view of policy.

Mr. Fleck: That is correct.

Mr. Bullbrook: And I am prepared to accept that as one member of the committee so let me try and ascertain if there are any other reasons. Would Government Services have dealt with Canada Square on the building of the OISE building?

Mr. Fleck: I don't know.

Mr. Bullbrook: You don't know that.

Tape H - 937 follows



July 4/73
3:30 - 3:35 pm.
M.S.

~~(Mr. Bullbrook)~~

~~have dealt with Canada Square or the building on the O.C.T.
building?~~

~~Mr. Bullbrook: I don't know~~

~~Mr. Bullbrook: I don't know. It's a bit of a mystery.~~

Mr. Fleck: No.

Mr. Bullbrook: I'd like to have that looked into.

I'm trying to rack my thought as to what possible connection there could be between Government Services, because I wholeheartedly agree that Public Works should have nothing to do with the Hydro building at all. Frankly speaking, the explanation that you give, and I ~~am~~ realize that they're not fabricated, but they're possibilities of reasoning. But as far as the total aesthetics of the East Bay development as oriented with the Hydro. You see, Mr. Gathercole wouldn't know about the East Bay development, would he? And he's the one that raised it in the letter, right? So, I think we can dispose of that from your point of view, but from Mr. Gathercole's point of view, he certainly wouldn't be referring it to Public Works because -

Mr. Fleck: No, but I think that in the letter -

Mr. Shibley: Excuse me, Mr. Fleck. I think it's significant that the letter, which follows upon discussion between Mr. Gathercole and Mr. McKeough, that Mr. McKeough would be alerted to those circumstances. And you notice that it was Mr. McKeough who suggested this was a starting point

~~Mr. Fleck:~~ Mr. Fleck: I was going to make that point.

Mr. Bullbrook: So, that Mr. Gathercole might have been aware of that?

Mr. Fleck: No, no. That Mr. McKeough would have been aware, and he might have, therefore, alerted Mr. Gathercole. As you both say, we're trying to come up with credible reasons, after the fact.

~~Mr. Fleck:~~

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Mr. Bullbrook: You see, another thing, for example, Mr. Fleck, you talk about the knowledge of Public Works ~~and~~ in connection with a lease-purchase arrangement. I thought we had agreed this morning that, really, your concern wasn't with the substance of the lease-purchase arrangement. Right?

Mr. Fleck: Right.

Mr. Bullbrook: And I only say this because of, what could be worst phrased, inconsistencies there; so, that the reasoning that we give there. I'm very interested that we do pursue the question of what relationship Government Services would possibly have; frankly, in the context of, perhaps, Canada Square. Because I don't know whether they had, but one would think that it's the normal function of Public Works to provide, to its sister ministries or departments as it then was, their facilities. I would have thought that Government Services, or Public Works as it then was, would have dealt quite directly with Canada Square at the time of the building of the OISE building.

Mr. Fleck: I don't know. I'm sure I could find out.

Mr. Bullbrook: Could we look into that? I would appreciate that.

Mr. Fleck: Sure.

~~Mr. Bullbrook~~ Mr. Bullbrook: I'm like you, Mr. Shibley. I do accept this evidence, but ~~there~~ there had to be some explanation here for a, frankly, of a public servant of the great talent and ability that you have, to be putting down this notation, without any substance in fact, and against your very philosophy of ~~the~~...

Mr. Chairman: Mr. Renwick?

Mr. Renwick: Mr. Chairman, I want to comment on a question. My comment is that I share with Mr. Bullbrook my concern as to whether the origin of the idea, both with Mr. McKeough and from this notation, was because Government Services had been involved, or Public Works, as it then was, had been involved with the lease-purchase arrangement between Canada Square and OISE.

July 4/73
3:30 - 3:35 pm.
M.S.

(Mr. Renwick)

My other question is to ask Mr. Fleck whether he was present, or whether he knows who was present at the meeting on June 1, between 11:15 and 11:45, between the Premier and Mr. Gathercole?

Mr. Fleck: I was present and I did make the note that I referred to earlier about ~~the~~ setting up a Cabinet meeting on July 17 to receive the Task Force Hydro report, and also the comments that I mentioned that had been made to Mr. Gathercole at that time.

Mr. Renwick: I'm asking you now then, Mr. Chairman, if I may, to search your recollection, search your memory; do you have any recollection that, at that meeting on June 1, which would be consistent with the period of time of the May 16 letter and the note of June 9? Do you have any recollection yourself that there was any mention of any kind about the Ontario Hydro head office building at that meeting?

Mr. Fleck: No, I have no recollection at all of that.

~~Mr. Fleck: I have no recollection at all of that.~~



Tape H 938 follows

July 4, 1973
3:35 - 3:40 p.m.
M.R.

(Mr. Fleck)

...No, I haven't. I have no recollection of that at all...

Mr. Renwick: I assume, Mr. Deans asked me whether you were there all of the time ~~was~~ that that meeting took place?

Mr. Fleck: Yes, I was. I was there all of the time, at that meeting.

Mr. Shibley: In any event, you have confirmed that fact by discussion with the Premier over the recess?

Mr. Fleck: That is correct. And I have also confirmed it in this sense, that I have asked Mr. Gathercole if he has any recollection of any discussion on that subject.

Mr. Shibley: Yes.

Mr. Chairman: Mr. Shibley, back to you, sir.

Mr. Shibley: Don't feel badly, Mr. Fleck, we are all entitled to one.

Mr. Fleck: That reminds me of another joke.

Mr. Shibley: You were also asked this morning, by me, about the release of August 25th?

Mr. Fleck: Yes.

Mr. Shibley: And whether, in fact, a copy of that release had been received in the Premier's office and whether in addition to the release itself, you had received a copy of --- I think it's the proposed answers to questions?

Mr. Fleck: Yes.

Mr. Shibley: And what have you discovered in that respect?

Mr. Fleck: That we have no record of having received the press release or the answers, although I think I did mention to you this morning that I have some recollection of having seen those answers at some point in time, but much later. That we have no record and I have no knowledge of our having received that press release at all and the material you referred to this morning as being possibly included with it.

Mr. Shibley: All right. Now, you said that you had seen the material later in point of time.

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3.35 - 3.40 p.m.
M.R.

(Mr. Shibley)

Did the material you saw later include the proposed answers?

Mr. Fleck: When you showed me that document this morning

Mr. Shibley: Yes

Mr. Fleck: I was of the opinion that somewhere, sometime, I had either seen that or something set up in a somewhat similar way.

Mr. Shibley: Now, when would be the earliest occasion on which you had seen the press release of August 25th and the proposed answers of the same date?

Mr. Fleck: I have no recollection of the press release of August 25th. The recollection that I have is of the answers - that sheet. And the earliest, to my recollection, that that would be likely to occur and the earliest recollection I would have, would be some time in December because I do see Mr. Candy some time after the December 6th or 7th, somewhere in there and I do see certain materials at that time and I think it may be at that time that I saw this.

Maybe I should add this as well: That it is possible too that it would be other material because in my role there are times when I may be trying to anticipate questions and to prepare material that would be helpful in replying to those questions, not in relation to this specific item, but I mean, in general. So, again, I wouldn't be surprised at seeing some material set up in that way.

Mr. Shibley: All right.

Mr. Genest: Mr. Shibley, I have made inquiries on this document.

Mr. Shibley: You have done your luncheon homework?

Mr. Genest: I did my luncheon homework. The document was prepared by the public relations staff of Hydro, for use by information staff of Hydro, in connection with any questions that might be raised by the press arising out of the

July 4, 1973
3.35 - 3.40 p.m.
M.R.

(Mr. Genest)

press release itself. To the best of our information, it did not go outside of Hydro. We have confirmed with Mr. Lawrence's office that they have not received the questions and answers. We do not believe that Mr. Auld's office received those but we are just waiting for confirmation, in that regard.

Mr. Shibley: Now, I might remind you, Mr. Genest, that somewhere in my memory I noted a meeting with Mr. Auld. I don't know who it was with. I think it was with Mr. Candy ~~some~~

Mr. Genest: Yes, Mr. Auld ~~was~~

Mr. Shibley: ~~was~~ was to meet with Mr. Auld on the

Mr. Genest: That's with the report of November 15th, Mr. Shibley, and there was a meeting on November 20th with Mr. Auld with Mr. Candy.


Mr. Shibley: I see. That was a later event?

Mr. Genest: That's right. And I believe that what Mr. Fleck is referring to is what he saw in December is that report or a version of that report of November 15th.

Mr. Shibley: So that is another topic.

Mr. Genest: That's another document entirely.

Mr. Shibley: All right. So that, can we take it that as at the moment the press release only was sent and



H-939 to follow

July 4, 1973
3.40-3.45 pm
V.H.

(Mr. Shibley)

~~_____~~
that it was sent to Mr. Auld and Mr. Lawrence. Have you been able to -- well, we might as well get this topic complete. Was a copy in fact sent to the Premier?

Mr. Genest: We have no record of a copy being sent to the Premier's Office.

Mr. Fleck: That is consistent, I might add, with my research.

Mr. Shibley: ^{What} ~~is~~ it is inconsistent with, Mr. Fleck, is that your office received a copy of what you call the draft press release of July 21 but not a copy of the final document.

Mr. Fleck: Yes.

Mr. Shibley: Would you ^{agree} ~~say~~ that is inconsistent?

Mr. Fleck: Well, ~~let me say~~ let me say, it wouldn't be unusual if we had received it. In other words, if we had received the draft, there would be nothing unusual about having received ^A copy of the final one.

Mr. Shibley: ^{have thought they would}

Fleck: I would like to point out that it may be a different mailing list because it ~~was to~~ ^{was to} Mr. Lawrence at that time rather than to Dr. Reynolds.

Mr. Shibley: I see.

H-939-2

July 4, 1973
3.40-3.45 pm
V.H.

~~XXXXXXXXXXXXXXXXXXXX~~
~~XX~~
Mr. Chairman: I think we will have another recess
gentlemen. ~~U/M~~

H-940 follows

July 4, 1973
4.00-4.05 p.m.
M.F.

H - 940 - 1

Mr. Chairman: Gentlemen, I call the meeting back to order.

Mr. Shibley: Mr. Fleck, I want to ascertain whether you received in the Premier's office a copy of the July 19 "Advice of Commission Decision" which is in exhibit before these proceedings evidencing the decision of the Hydro Commission to contract with Canada Square?

Mr. Fleck: Could I see a copy of it please? I believe I have, not at that time, but I have a copy.

Mr. Shibley: It is exhibit 84, members of the committee.

Mr. Fleck: July 19? Yes, I have a copy of that.

Mr. Shibley: When did you first receive a copy of that advice?

Mr. Fleck: Some time after my first meeting with Mr. Candy which is some time early in December.

Mr. Shibley: Of 1972?

Mr. Fleck: Of 1972.

Mr. Shibley: Had you any communication with anyone referable to the head office building of Hydro, let's say during the month of July, taking them one at a time?

Mr. Fleck: In July? No, other than of course receiving the press release.

Mr. Shibley: You didn't respond to that in any way I think you said.

Mr. Fleck: No.

Mr. Shibley: Did you have any communications as between the Premier's office and anyone at Hydro during the month of August?

Mr. Fleck: No, other than my reply to the letter which was written in August.

Mr. Shibley: Did you have any ~~other~~ communications during the month of September, 1972?

Mr. Fleck: No.

July 4, 1973.
4.00 to 4.05 pm
DT

Mr. Shibley: During the month of October, 1972?

Mr. Fleck: Let me see now. Let me get my --

No.

Mr. Shibley: Did you have any communications with anyone at Hydro ~~Canada~~ during the month of November, 1972?

Mr. Fleck: I received a copy of a letter from Mr. Gathercole that has been addressed to the Premier with the narrative and I have had conversations with Mr. Gathercole prior to the receipt of that narrative.

Mr. Shibley: Before we get to that, Mr. Fleck, had you at any time prior to the month of November, 1972, had any communication with Mr. Nastich of Ontario Hydro?

Mr. Fleck: No, ^{in so} ~~far~~ far as I know; no, I have not.

Mr. Shibley: Have you ever met Mr. Nastich?

Mr. Fleck: No.

Mr. Shibley: And no communication with him from you of any kind?

Mr. Fleck: No.

Mr. Shibley: Is that correct? I noted among the documents you produced to me before you were called to give evidence certain documents referable to Horizon Developments' proposal. Do you remember those documents? When did you consider the position of Horizon and make the calculations that are evidenced on those documents?

Mr. Fleck: Well that would be some time again after early December.

Mr. Shibley: I see. That would be following the time questions were tabled in the House?

Mr. Fleck: And following the time I came in contact with Ken Candy.

Mr. Shibley: Yes, so can I take it, Mr. Fleck, that until then you yourself were not involved in which I might call an evaluation of the proposal by Horizon?

Mr. Fleck: Yes, that is correct.

Mr. Shibley: Or for that matter of any of the developers save and except that of Canada Square?

Mr. Fleck: Correct.

Mr. Shibley: And we will get down to that in a moment. I am only concerned at the moment to be clear as to this, that you were not in communication -- when I say you, I mean you or anyone ~~within~~ in the Premier's office, including the Premier himself -- that you were not in communication with anyone within Hydro down to November, 1972, -- what we have been referring to.

Mr. Fleck: With the exception of the November call that will be coming to our attention.

Mr. Shibley: I am excluding November for the moment.

~~Mr. Fleck: Let me just make sure again --~~

(H-941 to follow)

July 4/73
4.05 to 4.10 pm
fvk

(Mr. Shibley)

~~.....I'm excluding November 1st for the moment.~~

Mr. Fleck: Let me just make sure again. No, that is correct.

Mr. Shibley: Fine. On November 1, the contract -

Mr. Fleck: Might I also add, again for completeness, I do have dates of meetings that Mr. Gathercole has with Mr. Davis at which I am present. There are two in September and there is one in November.

Mr. Shibley: Fine. Let's take one at a time and deal again only with the 1972 era.

Mr. Fleck: Correct.

Mr. Shibley: The June 1, 1972, meeting you have already referenced in your earlier testimony, and have you told us everything that you know in respect to that meeting?

Mr. Fleck: I have.

Mr. Shibley: And I take it that the essence of your evidence in that respect is that there was nothing said as between the Premier and Mr. Gathercole or anyone at Hydro referable to the head office?

Mr. Fleck: Correct.

Mr. Shibley: So we can consider that not a relevant meeting.

The next was September 12, 1972.

Mr. Fleck: Yes.

Mr. Shibley: Have you made inquiries as to the circumstances of ~~that~~ that meeting and its purpose?

Mr. Fleck: Yes, but I have not brought that data with me in terms of the specific meetings, but what I have done is I have assured myself that there was no discussion relative to the building between the Premier ^{and} Mr. Gathercole or between myself and Mr. Gathercole, or of anyone else in the office of the Premier, at any of those meetings.

Mr. Shibley: Is that the document that you went over with me in your office referable to the subject of the September 12 meeting?

July 4/73
4.05 to 4.10 pm
fvk

Mr. Fleck: I remember going over one of them. I just picked it out, but I don't - I think I can remember what some of the topics would be at that time. That could be one of the meetings.

Mr. Shibley: I'm thinking of the document which contained material which was irrelevant and should not be tabled before this committee. ~~XXXXXXXXXXXXXXXXXXXX~~

Mr. Fleck: That is correct.

Mr. Shibley: Is that the subject of the September 12 meeting?

Mr. Fleck: Yes.

Mr. Shibley: I go on then. The next meeting was September 25, 1972.

Mr. Fleck: Yes.

Mr. Shibley: What have you to say respecting that meeting?

Mr. Fleck: The same statement that there is no conversation between the Premier and Mr. Gathercole, or between myself and Mr. Gathercole, or any communication relative to the Hydro buildings at any of those meetings.

Mr. Shibley: When you give that testimony have you confirmed your testimony in that respect with the Premier himself?

Mr. Fleck: Yes.

Mr. Shibley: So we are now down to November of 1972.

Mr. Fleck: Correct.

Mr. Shibley: What was the first occasion of any contact between yourself and anyone within that month referable to the Ontario Hydro head office building?

Mr. Fleck: I have a notation down on November 7, Hydro-~~Don~~ Ellis-Don and the initials beside that I believe are JBC.

Mr. Shibley: You are referencing your ~~day~~ ^Ttimer?

Mr. Fleck: Correct.

Mr. Shibley: This is a booklet wherein you make ~~what~~ entries, not only of appointments, but of things to be done or which have been done on that day, or decisions taken that day. Is that correct?

Mr. Fleck: Correct. More things to do than things that

July 4/73
4.05 to 4.10 pm
fvk

(Mr. Fleck)

have been done.

Mr. Shibley: All right.Mr. Bullbrook: Could you give me the date again?Mr. Fleck: November 7, 1972.

Mr. Shibley: Mr. Fleck, you are aware that there has been evidence of a conversation between yourself and Mr. Cronyn referable to Ellis-Don within the month of November.

Mr. Fleck: Correct.

Mr. Shibley: ~~Mr~~ Mr. Cronyn's testimony was to the effect that conversation took place either in early December, following the tabling of Mr. Nixon's questions, or the last week of December at the latest, I think he said.

Mr. Fleck: The first week in December.

Mr. Shibley: I'm sorry. The last week of November or ~~for~~ the first week of December. You've read his evidence in any event in that respect.

Mr. Fleck: Correct.

Mr. Shibley: Can you now assist the committee as to what was the precise date of that meeting?

Mr. Fleck: I can certainly indicate that on November 7, I am aware of it, so it's either that date or immediately prior. My guess would be it would be that date.

Mr. Shibley: I'm going to ask you, Mr. Fleck, following your ~~testimony~~

(Tape H-942 follows)

JULY 4/73
4:10-4:15 pm
PLH

~~Mr. Chairman: I have along with this a covering page that is a letter from Mr. Gathercole.~~
to have the relevant pages of your Daytimer photocopied so that all members may have a copy of it.

Mr. Fleck: Would it be agreeable to put in the relevant portion of the page, rather than ^{the} ~~the~~ page?

Mr. Shibley: Yes. You can edit it to the extent that all we are interested in is that ~~new~~ portion of the entries which are relevant to the issues before this committee. Mr. Chairman, may I suggest for facility, when Mr. Fleck re-attends, as I intend him to do following his further examination of the files, those documents then can be exhibited. For the moment, I think we can work to his original document because all they are are entries. I'd like you to read, however, the precise and complete wording of what is on your Day-Timer on November 7.

Mr. Chairman: It wouldn't ^{be} given an exhibit number now? You propose to hold that to tomorrow?

Mr. Shibley: I think it would just create confusion to do that, Mr. Chairman.

Mr. Fleck: "J.B.C." and then it looks like a cross sign for an "and," "Hydro - Ellis-Don."

Mr. Shibley: Now the JBC are whose initials?

Mr. Fleck: John Cronyn.

Mr. Shibley: So that telescopes the matter even further in terms of identifying ~~the~~ the time and the occasion of the discussion in question?

Mr. Fleck: That is correct, yes.

Mr. Shibley: And do you further identify that as the date of your discussion with him respecting Ellis-Don by reference to the November 15 memorandum which is Exhibit 112? I ask that that be reproduced to you, dated November 15, 1972.

Mr. Fleck: I have along with this a covering page that is a letter from Mr. Gathercole.

July 4/73
4:10-4:15 pm
PLG

Mr. Shibley: Right. That is Exhibit 114. It is a covering letter of November 16. The document itself is the memorandum dated November 15, 1972. Now then, Mr. Fleck, did you have anything to do with the preparation of Exhibit 112?

Mr. Fleck: To be precise I am not positive, but ~~me~~ in my Day-Timer again, on November 9 I have a notation "Hydro building", just "bldg" letter - GG."

Mr. Shibley: "GG" would be George Gathercole?

Mr. Fleck: George Gathercole, right. And my recollection is that I did telephone Mr. Gathercole and ask if a narrative report, letter, document, setting out ~~the~~ ~~everything~~ everything that had happened in relation to this particular transaction ~~could be set out in~~ could be set out in narrative form for me. I do receive on -- I don't have a date stamp on this but ~~on~~ November 16 is the date of the letter and the date on the accompanying document is November 15.


Mr. Shibley: Yes. And I notice that the letter, which is Exhibit 114, notes at the bottom: "Copy to Mr. J. D. Fleck", so that can we take it that the memorandum dated November 15, 1972, Exhibit 112, is what was received by you as the result of your November 9 request to Mr. Gathercole that a statement in narrative form, referable to the letting of the Hydro contract, be provided to you?

Mr. Fleck: Yes.

Mr. Shibley: And what caused you to make such a request of Mr. Gathercole?

Mr. Fleck: A combination of factors; one, the conversation with Mr. Cronyn relating to Ellis-Don, and the other that ~~I had an appointment at that time that~~

Tape H 943 follows



July 4th, 1973

4.15 - 4.20 pm

AA

A 943 - 1

(Mr. Fleck)

~~relating to Ellis Don and the other that~~ I have an awareness at that time that newspaper reporters are interested in this matter and are carrying out an investigation or looking into the matter.

Mr. Shibley: Now, I just want to clear up that last part of what you have said. You say you heard that newspaper reporters - had you heard that any particular newspaper was considering an investigation at that time?

Mr. Fleck: Well, actually, my recollection is that it was the Star, and that's why I was interested in the reference to the ~~Star~~ Globe and Mail, in some testimony that I read.

Mr. Shibley: So that the rumour you heard was that the Star was considering an enquiry?

Mr. Fleck: I guess I would put it this way, I heard the rumour that there was an interest in the subject on the part of the press and that the paper that was interested was most likely the Star, but that there was no precision about this at all.

Mr. Shibley: Now, when you say you "heard a rumour," do I take ^{it} _A that you had heard such a rumour prior in point of time to November 9th?

Mr. Fleck: That's my recollection, yes. In other words, when I call, I believe it is on the basis of these two bits of information, ~~but~~ I am afraid I can't be precise about that but that is my recollection.

Mr. Shibley: Can you give us an outside date prior in point of time to November 9th, that would be the period within which you would have heard such a rumour?

Mr. Fleck: Well at that period of time and subsequent to that. I have had the feeling that ~~perhaps~~ *the Press* were interested in trying to find issues that might be

July 4th, 1973

4.15 = 4.20 pm

H 943 - 2

AA

(Mr. Fleck)

of embarrassment to the government, and I don't know that the rumour that I would think of at that time would be only related to this particular transaction.

Mr. Bullbrook: Did you have a feeling they were having difficulty, Mr. Fleck?

Mr. Fleck: I'm not sure that's relevant to this, ~~to~~ the question here.

Mr. Bullbrook: It really ~~wasn't~~ wasn't meant to be.

Mr. Fleck: So that I don't have a precise period in time. It's just that there is interest in a variety of items, that this is one, and I am not able to say where I heard it or when I heard it. I just have the feeling that it is something that is under consideration.

Mr. Shibley: All right, now

Mr. Fleck: And I believe that it is prior to November 9th.

Mr. Shibley: Well, I am presuming it was, because you have stated now, I take it, that it was a combination of the information about Ellis-Don provided to you by Mr. Cronyn, plus the rumour that the press were interested in the matter that caused you to request of Mr. Gathercole, on November 9th, the narrative that ultimately took the form of exhibit 112.

Mr. Fleck: Correct.

Mr. Shibley: And so we can take it that both those circumstances existed as at November 9th.

Mr. Fleck: That is correct.

Mr. Shibley: It's only a question of, in the case of the rumour how long before that date the information from Mr. Cronyn appears to have been received by you on November 7th.

Mr. Fleck: Correct.

July 4th, 1973

4.15 - 4.20 pm

H 943 - 3

AA

(Mr. Shibley)

Mr. Shibley: Then, Mr. Fleck, there has been evidence given by Mr. Cronyn that he met with the Premier during the month of November, 1972. You've read that.?

Mr. Fleck: Yes, I have.

Mr. Shibley: And that that meeting preceded his meeting with you during that month.

Mr. Fleck: Yes, that I am not as sure of, but I recollect something to that extent, yes.

Mr. Shibley: So that can we take it that Mr. Cronyn met with Premier Davis within the period November - I am sorry - within the period November 1 to November 7th, 1972?

Mr. Fleck: If he is accurate in his testimony, that would be the case.

Mr. Shibley: All right, now were you present at that meeting?

Mr. Fleck: I ~~was not~~ no - and I guess we obviously will have to check through - I do not have a recollection of a specific meeting. There are times when

~~Mr. Cronyn met Mr. Shibley on November 1, 1972.~~

H 944 - 1 follows



July 4/73

4:20-4:25 pm
C.B.

(Mr. Fleck)

~~I don't have a recollection of a specific meeting at that time~~
~~are times when~~ Mr. Cronyn and Mr. Davis would be sort of brought together, and in particular in relation to some of the Task Force Hydro proposals at that time. I haven't been able to pinpoint a specific meeting for that one, I'm sorry.

Mr. Shibley: I might tell you my memory of Mr. Cronyn's evidence is that he discussed the Hydro head office building with the Premier on that occasion, but in another context, namely whether it was appropriate to centralize the head office building in that particular location. Do you remember that testimony?

Mr. Fleck: Yes I do.

Mr. Shibley: Now, so that we can take it from his evidence that the meeting he had with the Premier, within the period which is now telescoped down further to the first seven days of November, related to the Hydro head office building, and I want to know whether you can assist this committee as to what was the subject of the discussion between the Premier and Mr. Cronyn on that occasion.

Mr. Fleck: I can't at the moment. This may be one of the things I can try and search back and see if we can find a time where we are sure that Mr. Cronyn was talking with the ~~Premier~~ ^{Premier}, I'm not able to pinpoint that one, ~~that date~~ *as to date*.

Mr. Shibley: Mr. Fleck, against the background of your earlier evidence, that your function in the ~~Premier's~~ ^{Premier's} office is such that you would be fully familiar ~~with~~ ^{with} ~~the~~ ^{the} ~~Premier's~~ ^{Premier's} ~~office~~ ^{office} ~~as to date~~ ^{as to date}.

Mr. Fleck: Yes.

July 4/73

4:20-4:25 pm

C.B.

Mr. Shibley: with everything taking place as between the Premier and almost anyone. I'm most anxious to

Mr. Fleck: I wouldn't go quite that far.

Mr. Shibley: Let's leave his life out of it.

I'd like to have such information as you can provide to this committee as to the content of the discussion which took place between the Premier and Mr. Cronyn during the first seven days of November?

Mr. Fleck: I will try and do that.

Mr. Shibley: Now returning to the meeting with Mr. Cronyn on November 7, what did Mr. Cronyn tell you about Ellis-Don on that date?

Mr. Fleck: The recollection that I have was the notion of Ellis-Don did not have sufficient time to prepare their proposals.

Mr. Shibley: Yes.

Mr. Fleck: Was one recollection that I had out of that. ~~When~~ Mr. Cronyn mentions in his testimony the fact that there was no follow-up with Ellis-Don. I don't recollect that; I'm not saying that it didn't happen, but that isn't something that has remained in my consciousness. The feeling that I have coming out of it is that Ellis-Don did not get sufficient time to prepare the proposals, and therefore didn't get sufficient time to do a good proposal would be a way I would do it. Again if you remember the context that this would be told to me, was wearing, I guess my COGP hat, at least I interpreted it that way at the time,

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4:20-4:25 pm

C.B.

(Mr. Fleck)

and that as a part of the COGP studies we had looked at a procedure that is called "Request for Proposal" or RFP, was the terminology used, which is an attempt to try and do projects, and this isn't just buildings, it can be problems like providing schooling for handicapped children, — forget that example I guess, but ^{it could} be specific projects that are projects rather than a building. It is a way in which one can hopefully tap the creative and innovative talents of the private sector, through, in a sense, specifying a problem, and then a part of the proposal is the solution or the method by which one would solve the problem as well as a cost on the specific solution suggested. That of course is different than government, let's say ~~government~~ suggesting a solution and then getting quotations on to how to carry out the specific solution that government is recommending.

I am sorry to go on so long about this. But it was in this context I think Mr. Manning out in Alberta had been quite involved in trying to promote this particular concept in government and it has had application in other jurisdictions.

~~So there was this notion of a tendering process
tenders — Tenderers bring in the way one~~

H945 to follow

July 4, 1973
4.25-4.30p.m.
B.A.

H-945-1

(Mr. Fleck)

So there was this notion of proposals versus tenders, tenders being, of course, the way one normally associates ~~the~~ ^{THAT} government contracts are handled and by far the largest proportion of them are handled in that way. Now, I thought that the proposal method had a great deal of potential in terms of getting better results for government.

Mr. Bullbrook: Efficient.

Mr. Fleck: No, not efficient, more creative.

In other words, it's how to get something - well, if I can just use ~~the term~~ ^{- DRUCKER SAYS} "it's more important to do the right things than it is to do things right," and doing things right is efficiency, perhaps it is more important to do the right things, So it is how to get this input - I don't want to use the word "input" if I can't because I don't like it - but how to get the benefit, let's say, of the contribution, the ^{the} innovative and creative contribution ~~of~~ private sector people in helping to come up with these solutions. So this was a concept that I thought was important, and it was one that certainly ^{SEEN} had ~~put~~ forward in the COGP report, and it was in that context that I interpreted - I don't know if Mr. Cronyn said this or not, but what I interpreted ~~as~~ him as saying here is, "here is a case where they are using the proposal method and these people who I know, I am on their board, didn't get sufficient time to do a good job, and if you have those sorts of procedures it's going to jeopardize, or could jeopardize the future of that method of handling contracts," and it was in that context that I got it. So I wasn't really concentrating so much on the fact ^{of} ~~that~~ Ellis-Don as I am concentrating on the aspect of these procedures might affect the likelihood of government successfully using this type of an approach to government contracts.

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B.A.

H-945-2

Mr. Shibley: Mr. Fleck, you say it excited that kind of concern. Was your concern the result, in turn, of the fact that it did not appear that Hydro had been dealing properly with Ellis-Don respecting its submissions?

Mr. Fleck: I didn't get the feeling of it being improper. I think the term, and I don't want to misquote Mr. Cronyn, I think the term used was "sloppy".

Mr. Shibley: Yes.

Mr. Fleck: And, no, I didn't get the feeling at that point in time that this was something that was improper.

Mr. Shibley: ~~Wasn't~~ Did Mr. Cronyn tell you it was a sloppy job?

Mr. Fleck: I can't be precise on that. I think he said "sloppy procedures" is my recollection of what he would have said.

Mr. Shibley: Mr. Fleck, I remind you that ~~was~~ what Mr. Cronyn said to you sufficiently excited concern on your part to requisition the narrative, which is Exhibit 112. I put it to you that what he was reporting to you was much more than simply the ~~the~~ circumstance that the way Hydro had handled this particular project might jeopardize the future employment of the development route for government projects. Didn't he say to you that this is one of the developers that made a proposal and is kicking up his heels, so to speak, because he didn't ~~feel~~ feel he was getting a fair shake?

Mr. Fleck: No.

Mr. Shibley: Did he not put his report to you in the context that this was a developer that might cause problems for government?

Mr. Fleck: No.

Mr. Shibley: Did he not put it ~~to~~ to you in the context of, "You'd better have your answers ready for this fellow because from what he has told ~~me~~ me he is making a lot of statements that requires answers to be prepared"?

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Mr. Fleck: No.

Mr. Shibley: Well, what I would like to know, Mr. Fleck, is why it was then, that the combination of the circumstances of ~~was~~ a threatened rumour, I'm sorry, a rumour of a threatened investigation, the combination of the rumour of a threatened investigation by the press and the information provided to you by Mr. Cronyn ~~and~~.

Mr. Fleck: The rumour of an investigation; that word "threat" bothers me too, from time to time, I don't think it was a threatened investigation. There was the possibility of an investigation.

Mr. Shibley: Let's start back. Why did you consider that the rumour of an investigation by the press, combined with the information provided to you ~~by~~ by Mr. Cronyn about the Ellis-Don complaints, were such as should prompt you to requisition ~~a~~ narrative ~~and~~ in the form of Exhibit 112?

Mr. Fleck: ~~Because we had need to be better informed.~~
If it was

(Tape H-946 follows)

July 4/73
4:30 - 4:35 pm
CA

H-946-1

(Mr. Shibley)

~~in the form of exhibit 1122~~

Mr. Fleck: Because we just ~~wasn't~~ be better informed if it was something that might ~~be~~. You know part of the job I guess is anticipating the problems as well as reacting to them. And it was the feeling that perhaps I should become better informed on this particular transaction. But as I said, I took the initial conversation in this context that I've described with you, but certainly the reaction that I have takes it out of that context and puts it into the one of linking it with the concern of a possible investigation being carried ~~out~~ ^{on} by the press.

Mr. Shibley: Mr. Fleck, having regard for the fact that you now know with great precision what are the complaints of Ellis-Don.

Mr. Fleck: Yes.

Mr. Shibley: And what were then the complaints of Ellis-Don, how do you compare with what you were told by Mr. Cronyn your present knowledge of the basis of their complaint?

Mr. Fleck: I guess I would take the complaints now as being more serious than my understanding of the complaints at that time.

Mr. Shibley: Yes. So that your ~~answer~~

Mr. Fleck: Is that the type of ~~answer~~

Mr. Shibley: What I want to know is how much of what Mr. Smith was complaining about to Mr. Cronyn did he relay to you on that occasion, and I take it from your last answer that only a fraction of the complaints were passed along to you?

Mr. Fleck: Correct.

Mr. Shibley: ~~XXXXXXXXXXXXXXXXXXXX~~ But notwithstanding that it was only some lesser measure of those complaints, you were sufficiently responsive to call for the November 15 memorandum to be prepared.

Mr. Fleck: That is correct.

Mr. Shibley: I want to, and just to complete the picture now, your discussions with Cronyn are on the 7th, and you wait until the 9th to requisition the narrative of ~~the~~

H-946-2

Mr. Fleck: No, well ~~and~~ sorry, go ahead.

Mr. Shibley: All right.

Mr. Fleck: I am not sure. I am sure that my discussion with Mr. Cronyn would be no later than the 7th. And I presume that it is the 7th. I don't have a specific recollection of the time.

Mr. Shibley: It might have been earlier than that, date.

Mr. Fleck: It could have been the 6th. It is conceivable, although it doesn't make sense to me. I think it would be the 7th.

Mr. Shibley: All right.

Mr. Fleck: The other ~~the~~ thing is that the note on the 9th could be the time that I called Mr. Gathercole. It could be that I called him on the 8th, and maybe on the 9th, I heard back that they will have something for me next week, or something of this sort. I can't reconstruct that again. As I have heard others have said in their testimony one makes many calls in a day sometime and I can't be precise on that. I do not keep a log of telephone calls.

Mr. Shibley: So that you might have placed a call on the 8th and entered it in your ~~daytime~~ around the 9th?

Mr. Fleck: That's right. Because often Mr. Cronyn and I, as has been pointed out I think, would have, would see each other several times. I don't say several times in a month, but several times over a period of time, and often it would be where he would drop in very ~~late~~ late in the afternoon.

Mr. Shibley: Yes.

Mr. Fleck: When things were a little quieter. It might be ~~6~~ 6 o'clock, something of that sort. And even if I wanted to initiate something immediately it usually wouldn't be until the next day because it is hard to find other people still there at that hour.

Mr. Shibley: So that can we take it that in terms of matters accomplished by you that you want to record in your ~~daytime~~, the date of recording may not always be correct?

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fvk

(Mr. Shibley)

~~the meeting~~ you might have made the call to Mr. Gathercole on the ~~call~~^{8th} and recorded it on the ~~7th~~^{9th}.

Mr. Fleck: Yes, or I might have made it on the ~~7th~~^{9th} because again it would often depend on how busy I was with other things and whether I would get to that soon or get to that later.

Mr. Shibley: So you ~~were~~^{were} uncertain really as to the date of that ~~call~~^{call}. It would be sometime between the ~~7th~~^{7th} and the ~~9th~~^{9th}. Is that correct?

Mr. Fleck: Correct.

Mr. Shibley: I want to produce to you, Mr. Fleck, exhibits 105 and 106, both of which are dated November 8, 1972.

Mr. Fleck: Yes, I've skimmed these. I have not seen them before.

Mr. Shibley: Yes, all right. The significance of both those documents is they reference the subject of a commission meeting on that date. I purposely did not forewarn you, Mr. Fleck, that I was going to ask you today about --

Mr. Fleck: No, you did not.

Mr. Shibley: -- any ~~any~~ prior communications with Mr. Nastich because I wanted to test your evidence in that respect and I'm sure you'll understand why.

At ~~the~~^{the} the meeting of November 8, you'll note that Mr. Nastich is reported as having ~~stated~~^{stated} upon the commission the need to prepare valid reasons which could be listed which influenced the commission in adopting this method of obtaining a new head office building. It goes on to say: "It was recognized that the same results might have been obtained by these methods for the present manner of proceeding with the head office building does not guarantee that it would be necessarily cheaper, or that the commission would obtain a better building. It was agreed that, with these questions in mind, answers would likely be required from time to time. In any event, it would be advisable for those sections of the property engineering and finance divisions concerned to prepare a detailed statement on why the commission has proceeded in this manner for the

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(Mr. Shibley)

head office building."

Mr. Fleck, you can understand what ~~was~~^{ran} through my mind when you showed my your ~~Day-Timer~~^{Day-Timer} ~~earlier~~ today. I want to now have you make a matter of record whether or not you had anything whatsoever to do with Mr. Nastich urging the ~~pre~~ preparation of the kind of data that's reflected by these memoranda~~s~~.

Mr. Fleck: No, I've not met him and so far as I know ~~that~~ I've never even spoken with him.

Mr. Shibley: Did you, or anyone in the Premier's office, have any ~~any~~ communication with anyone within Hydro that might have brought about the recommendations of Mr. Nastich to the commission on a meeting of that date?

Mr. Fleck: Only if, and I wasn't ~~a~~ aware of this, only if my call to Mr. Gathercole might have been on the ~~subject~~ and conceivably something he said to Mr. Nastich, but other than that I can't think of anything. There's nothing that I know of.

Mr. ~~Shibley~~ Shibley: All right.

Mr. Fleck: Because I'm not positive whether it's the ~~subject~~ or the ~~subject~~^{Day-Timer}, and, of course, I didn't realize ~~that~~ it had any significance. At the time I wasn't positive and I remain not positive.

Mr. Shibley: I realize that. Again, Mr. Fleck, I think to make the picture ~~complete~~ complete to this committee I should tell the committee that I examined Mr. Fleck's ~~subject~~ with him this morning before committee met. We had a meeting at ~~4.35~~ and part of the material that he produced to me was his ~~subject~~. I did not tell him what ran through my mind at that time, that it might be significant to the submissions made by Mr. Nastich to the commission at its meeting of November 8, and I was very careful to avoid alerting ~~this~~^{others} to the circumstance of the coincidence, if you like, of dates entered in his ~~subject~~^{Day-Timer}, and the subject matter of the commission meeting of that date for the obvious reason, as I say and I hope you will understand, Mr. Fleck, that it was in everyone's interest that I proceeded in that manner.

(Tape H-948 follows)

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4:40-4:45 pm
PLG

(Mr. Shibley)

~~in everyone's interest that I proceeded in that manner.~~

Now again, come back to the circumstance that on November 7 you met with Mr. Cronyn and he told you then something of the Ellis-Don complaint. The Commission was meeting on the 8th and Mr. Nastich was moving in a direction which appears to have paralleled your own line of thinking as to what should be compiled, and either on the 8th or the 9th of that month you requisitioned the narrative, which was the November 15 document. Is that correct?

Mr. Fleck: That is correct. I also recollect, I think, I saw something else. Wasn't there a memo from Mr. Gordon to somebody sometime suggesting a narrative that went even back further?

Mr. Shibley: ^{Yes.} Well that ~~was~~ was I think what we called the "Seguin episode."

Mr. Fleck: I am sorry. I'll learn.

Mr. Shibley: I still would like to ask you, however, Mr. Fleck, again, whether you have any knowledge, information or even belief at this juncture as to the circumstance of any outside influence upon Mr. Nastich or anyone within Hydro to bring about the decisions that were being discussed at the meeting of November 8?

Mr. Fleck: No ~~has~~ knowledge, information or belief.

Mr. Shibley: And nothing you saw or heard at the time or have seen or heard since that time, would ~~that~~ your answer that you have just given?

Mr. Fleck: That is correct.

Mr. Shibley: Now, Mr. Fleck, did you discuss the circumstances respecting the preparation of the November 15 narrative with Mr. Gathercole when you requested it of him?

Mr. Fleck: I do not have a recollection of the actual telephone call, but I would believe that I would just have said what I indicated before, sort of a narrative statement of what has happened to provide me with some information, but I did not in any way mention what Mr. Cronyn had mentioned. I did not

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PLG

(Mr. Fleck)

mention that I ~~was~~ thought ~~that~~ there was maybe a newspaper story. I just asked for the narrative.

Mr. Shibley: You asked him for the narrative.

You initiated ^e the call to him?

Mr. Fleck: Yes.

Mr. Shibley: And beyond asking for the narrative did you tell him the kind of information that you were seeking?

Mr. Fleck: I really cannot recall, but I do not believe so. I ~~was~~ just said that I would like a narrative statement of what had taken place, relative to the contract with Canada Square on this building. Now I don't know the particular part coming out of the conversation with Cronyn. Certainly one part I would be interested in would be how the other people had been handled, but I do not recall specifically asking for that.

Mr. Shibley: Mr. Fleck, surely you would have given Mr. Gathercole enough information in the course of that exchange to alert him to the kind of information you wanted and the reasons why you wanted it, would you not?

Mr. Fleck: No, I wouldn't necessarily give him the reasons. No. If I am asking for something I am not always -- the ^{re}ason is I want it.

Mr. Shibley: It is like my wanting to look at your Day-Timer this morning.

Mr. Fleck: Now given this, and I have no recollection of it, ~~It~~ is conceivable Mr. Gathercole might have said -- no, no, what a coincidence. No. I don't recall. I really have no recollection. I am sorry, I will try and not defer this one.

Mr. Shibley: It was only the toe of the shoe that reached us. All right. ~~It~~

Tape H 949 follows

July 4, 1973.
4.45 to 4.50 pm
DT

~~Mr. Cronyn~~

~~Mr. Cronyn: Mr. Fleck, I will explain to you~~

~~Mr. Cronyn: Mr. Fleck, I will explain to you~~

why I am interested in ~~that~~ asking you about this.

Mr. Bullbrook: Could I just ask you to ask one question?

Mr. Shibley: Surely.

Mr. Bullbrook: Don't be angry with me. The witness had said that he referred to the contract with Canada Square. Maybe I have missed something but was the witness aware of the November ^{1st} ~~first~~ meeting and that Hydro had then authorized the execution of the contract?

Mr. Fleck: No.

Mr. Shibley: I thought I would --

Mr. Bullbrook: That's the whole basis of Mr. Cronyn's discussion with the ~~witness~~ witness is the fact that he knew the contract had been let.

Mr. Fleck: I am not aware of that. My understanding and it may have been -- and obviously I guess was a false one that the press release that I saw back in July indicated that Hydro and Canada Square decided to get together and I thought that that was it at that time so I was not aware, prior to the event or even immediately after, of the November ^{1st} ~~first~~ signing.

Mr. Bullbrook: So we can assume that Mr. Cronyn didn't tell you?

Mr. Fleck: Right.

Mr. Bullbrook: That Canada Square had received the contract?

Mr. Fleck: Not that I recall. Again I think it was in the context of the proposal --

Mr. Bullbrook: I thought I heard somebody say Cronyn didn't know. I am sorry.

Mr. Fleck: I didn't say that.

Mr. Genest: I think I said yesterday, Mr. Bullbrook, that Hydro made no announcement of the signing of the contract other than the August release.

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DT

Mr. Bullbrook: I am referring now to the very foundation of Mr. Cronyn's reasoning ~~was~~ that he was aware of the contract and it then removed the cloak from him.

Mr. Fleck: Well, my -- I guess if I am allowed -- I will try not to surmise too much but I would feel that one would have that feeling after reading it in the press in early September or late ~~Aug~~ August.

Mr. Chairman: Remove the restrictions from Mr. Cronyn's mind.

Mr. Bullbrook: Well, let's not get into that now. I was very interested. You see, if I recalled your ~~was~~ evidence, and I am certainly not taking again issue with you~~s~~. Believe me, but your evidence was that in the discussion, as I understand it, the ~~discussion~~ discussion with Mr. Gathercole on November 9, you mentioned the contract with Canada Square.

Mr. Fleck: No, we were talking about what I might have mentioned because Mr. Shibley was trying to help me sort of reconstruct it and, as I said, I don't have a recollection of it other than asking for a narrative statement on the events leading up to the --

Mr. Shibley: I think what Mr. Bullbrook is asking you really is, did Mr. Cronyn give you any explanation as to why he had failed to bring these complaints of Ellis-Don to your attention earlier?

Mr. Fleck: No.

Mr. Shibley: And did Mr. Cronyn indicate for what period of time ~~was~~ he had been alert to the complaints and questions?

Mr. Fleck: No.

Mr. Shibley: And I take it that in the course of the numerous contacts which you had with Mr. Cronyn throughout ~~1972~~ 1972, at no time during the period February to November of that year did he ever bring it to your attention or anyone in government that Ellis-Don had these ~~com~~ complaints?

Mr. Fleck: Yes, he did not bring it to my attention.

Mr. Shibley: Nor anyone in the Premier's office?

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DT

Mr. Fleck: Nor anyone in the Premier's office.

Mr. Bullbrook: I am sorry to interrupt you. You were bent on another line of questioning but I wanted to clarify this.

Mr. Shibley: All right, Mr. Bullbrook. I was asking you about what you had said to Mr. Gathercole on the occasion of your request to him of November ~~eight~~^{8th} or ~~ninth~~^{9th} for the narrative, ^uWhat did he say to you on that occasion?

Mr. Fleck: I don't remember but if there were anything of substance, I would think I would remember. I would think he most likely said "Fine" or "we will do that" or he may have said - "I will call you back and let you know how soon we can have it." I mean ~~that~~^u nothing that's out of what I would expect he would reply in a situation such as that which is that he would be trying to co-operate and would be attempting to get me ^{the} ~~the~~ information that I wanted.

(H-950 to follow)

July 4th, 1973
4.50 - 4.55 pm

H 950 - 1

AA

~~would be obtaining to get the information that I wanted.~~

Mr. Shibley: Mr. Fleck, I want to refer you to the evidence of Mr. Gathercole in Hansard tape 212, page three, which was on May 31, 1973. That is Thursday, May 31, 1973. It is not indicated whether it was morning - I am sorry, it was only in the afternoon that we had a session. At page 212 - 3, I was asking Mr. Gathercole about providing the memorandum of November 15 to the Premier and I'll skip the earlier unimportant portion. At the bottom of that page, Are you with me yet?

Mr. Fleck: On 212 - 3?

Mr. Shibley: 212 - 3.

Mr. Fleck: Yes.

Mr. Shibley: "Mr. Shibley: Now, then, again, the purpose behind this communication with the Premier, Mr. Gathercole, was what?"

"Mr. Gathercole: Well, again there were questions emerging in the House and understandably, I felt that he should be in a position to comprehend what we were doing."

"Mr. Shibley: All right. The document is one dated November 23, 1972."

"Mr. Bullbrook: Excuse me, Mr. Shibley, just while you're on that, just one short question, why would a copy go to Mr. Fleck?"

"Mr. Gathercole: Well, a copy would go to Mr. Fleck as being the executive assistant, the director to the Premier, so he would also be aware of what the information was."

Mr. Hodgson: Mr. Shibley, would this also go to his home, or would this go to his office? Sometime prior, you sent a memo to his house."

"Mr. Gathercole: That was only because I presumed he would be getting back from someplace and somebody

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AA

(Mr. Shibley)

--- suggested, from his office, that he was home, or whatever the [redacted] occasion was, whether he was ill or away, that it be delivered to his home. In this case, I haven't any doubt [redacted] it was delivered to his office. That would be the normal course."

[redacted] Now, I might tell you, Mr. Fleck, that at [redacted] no time ^{THAT} I remember in Mr. Gathercole's evidence or in the evidence of any prior witness and, in fact, not until you advised me in the course of our [redacted] initial telephone interview, was it made known to me or to this committee that the circumstances surrounding the creation of the November 15 [redacted] document were such as you have outlined to me today. And I want to know whether you had any discussion prior to the convening of this - I am sorry. I will start again - whether there was any discussion between yourself and anyone on behalf of Hydro as from the time this select committee was constituted, or the order constituting it was made, respecting the circumstances which brought about the preparation of the November 15 memorandum.

Mr. Fleck: I [redacted] can't be positive. As far as the dates and the Day-Timer, that's just last night, I mean it is that recent, [redacted] it shouldn't have taken me that long, but it terms of going through Day-Timers and seeing if I could relate them to any of the specific events, that's very recent, so there certainly was no discussion about specific dates. In my own mind, I was talking early November and that was all that I knew at that time. I wasn't able to pin it down.

Mr. Shibley: Mr. Fleck, I am sorry to interrupt you. What [redacted] I'm really concerned about is this. Was there any discussion between you and the people in Hydro or any of [redacted] them, as to the circumstances which brought about the bringing

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H 950 - 3

AA

(Mr. Shibley)

→ of that document into existence, prior to anyone giving testimony before this committee?

Mr. Fleck: The circumstances, ^{is} I don't believe so. I think that with Mr. McCallum I have had conversations about specific dates, in other words, about events, and it may be that at an earlier time - I am not sure of this - that I may have talked with him about the fact that I thought that I had asked somebody for a narrative and I wasn't sure originally whether it was Mr. Candy, ^{but} I didn't think so because I ~~couldn't~~ couldn't imagine why I would be contacting him, In fact, I don't ~~know~~ ^{met} him until later, ^{or} Mr. Gathercole. And the Day-Timer, or the notes, first of all pinned for me that it was Mr. Gathercole and it helped me with a date. ~~then~~



H 951 - 1 follows

H-651-1

(Mr. Fleck)

~~pinned down for me that it was Mr. Gatherecole, and it helped me with~~
~~the date.~~ So ~~passed~~ ^{passed} that time I had the notion that as a result of the conversation with Cronyn, and as a result of my feeling that there was an investigation under way by the press, that I had asked for more information. That was my earlier recollection and I believe that, in fact I'm reasonably sure I would have discussed that with Mr. McCallum, but not as to dates, and I don't know that I would have linked the 15th memo as being sort of specifically produced as a result of that.

Mr. Shibley: Yes.

Mr. Fleck: I knew I got it, and I knew I had asked for something, but I hadn't necessarily put a casual relationship between the two.

Mr. Shibley: All right. Now would you have communicated that to Mr. McCallum before this committee convened?

Mr. Fleck: No. I can't think of why I would, and I don't think I did. No, I think this is all after the committee ~~was~~.

Mr. Shibley: What I mean by convened, before this committee had its first sitting at which it took evidence?

Mr. Fleck: Not that I know of. Not that I am aware.

Mr. Shibley: Did you communicate that to him prior to May 31, 1973?

Mr. Fleck: Again, not that I am aware.

Mr. Shibley: When you advised me of the circumstances surrounding the production of that document, it was in relation to the timing of Mr. Cronyn's conversation with you?

Mr. Fleck: Correct.

Mr. Shibley: And you were anxious at that time to establish that it was not, as Mr. Cronyn had said, a meeting in the latter part of November ~~and~~ or early December, and more likely as he said in early December, but rather a meeting in early November. Is that right?

Mr. Fleck: Well, yes. If it is all right to just quibble a little bit - anxious - I don't know about that word. I was of the opinion, and I think I have, I know I have mentioned this to you separately, that there was a separation in time.

H-951-2

Mr. Shibley: Yes.

Mr. Fleck: ~~Between~~ my becoming aware of Ellis-Don, Hydro, and as I mentioned later becoming aware of some figures in terms of Ellis-Don's relative position in this particular transaction, and I had the feeling of a significant separation of time between these two.

Mr. Shibley: Yes.

Mr. Fleck: And since I know I became aware of the financial data sometime in December, early December, I had the feeling there was a substantial separation, and for that reason I then was relatively sure that it couldn't be as close to the date of the financial information as Mr. Cronyn's recollection would have made it correct.

Mr. Shibley: Mr. Fleck, I'd like to go back with you on the evidence that Mr. Cronyn gave. Initially he testified that he had his conversation with you either in the last week of November, but more likely immediately following the tabling of Mr. Nixon's questions, and that he subsequently, namely on December 12, 13, or 14, made his now famous phone call to Mr. Smith. Do you remember that testimony?

Mr. Fleck: Yes I do.

Mr. Shibley: Yes. He thereafter brought forward his call to Mr. Smith as being more nearly a date approximating December 1 than December 12 because he was then made aware that that is when the questions were tabled. Remember that?

Mr. Fleck: Correct.

Mr. Shibley: And I put it to you that that evidence that he had spoken to you during the last week of November or in very early December, and had spoken to Mr. Smith, made his famous phone call, at exactly the same period of time, and that the sequence of telephone calls was ~~etc.~~ I'm sorry ~~etc.~~ the sequence was he met with you first, and he made the call to Mr. Smith thereafter, that the shortness of that period was a circumstance of concern.

Mr. Fleck: I can see what one possible conclusion could be if it was, so I would presume that that is what you mean when you say it would be a cause of concern; it doesn't necessarily have to

~~750 - 600~~

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5 - 5:05 pm

C.B.

(Mr. Fleck)

~~if it was so I would presume that that is that you mean~~
~~when you say it would be a matter of course. I don't~~
~~know anything about it~~ be the case but I'm quick enough
to recognize what you are suggesting.

Mr. Shibley: I'm just taking you step by step,
Mr. Fleck.

Mr. Fleck: All right.

Mr. Shibley: And, that the concern that emanated
from evidence of what now amounted to, back to back, discussion
with you ^{and} call to Smith, caused you to concern yourself about
the precise timing of the meeting with Mr. Cronyn, and you
established that initially by relating it ~~to~~ to the
requisitioning of the document dated November 15.

Mr. Fleck: No.

Mr. Shibley: I see.

Mr. Fleck: No, I can say when I have that concern
about setting the events straight, it really is not based on
any conclusion that may have been drawn.

Mr. Shibley: I see.

Mr. Fleck: You remember my first ^{concern} and I realize
this takes us a little bit down another alley, but I'll
make it very short. My first concern ^{about it} ~~about~~ the evidence
was in relation to Mr. Manthorpe's evidence that had
placed his meeting with MR. Candy as being, I think it was
December 12 or December 11, where I was certain it was
December 15, and I was sort of working back from that and
I was seeing other events getting compressed, and really

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(Mr Fleck)

that was the initial bit of evidence that triggers me; and the other bit is this consciousness on my part of a substantial separation of time. I'm not able to put down the dates, but separation ~~between~~ of time between my being aware of the financial information related to Ellis-Don and my being aware of Mr. Cronyn's comments about Ellis-Don.

So those are the two things to me that were inconsistent. Now, I sure I can see as a by-product you've got this other one as well.

Mr Shibley: Now in any event as the ~~new~~ evidence was evolving before this committee within the last few days, you developed a reason for wanting to pinpoint the date of your discussion with Mr. Cronyn and one of the methods was by reference to the document of November 15.

Mr. Fleck: I have a little trouble there, because really my reason for wanting to pinpoint any of them is to try and give you sort of factual evidence on which you can relate it to other things that are happening. But I don't have any reason for wanting a date to be earlier or later than some other date. I'm sorry if ^{perhaps} I'm not trying to move it off on another track, but I just have a little difficulty following what your line of reasoning is.

Mr. Shibley: Well, Mr. Fleck, I'll make my purpose perfectly clear to everyone as I've been asked to do numerous times, because I gather my line of thinking isn't always that clear.

I want to know whether there was any motivation on the part of Mr. Gathercole and other people within Hydro

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C.B.

(Mr. Shibley)

in ~~trying~~^{failing} to disclose to ~~me~~^{me} the ~~the~~ circumstances respecting the preparation of the November 15 document, or whether they simply unwittingly believed what Mr. Gathercole has said in the evidence that I've read to you. In that connection I am concerned to know ~~whether~~^{whether} you had any discussion with members of Hydro, and you said you had a discussion with Mr. McCallum, that would alert them to the actual circumstances for the preparation of that document, because if so, then I intend to find out why they considered it necessary not to disclose those circumstances to me.

I am also interested to know, because Mr. Cronyn in his initial evidence, and he stuck by it, said that his conversation with you took place in December in all likelihood or in the last part of November, ~~whereas~~ whereas we have now moved it back into November 7. Do you understand my reasoning now?

Mr. Fleck: Yes.

Mr. Shibley: Well I am most anxious to know, Mr. Fleck, what, if any, discussions took place as between yourself and any members of Hydro pending the giving of their evidence ~~before~~ before this committee referable to the bringing into existence of the memorandum of November 15.


Mr. Fleck: I really don't think there was any, prior to the point in time you were talking about. But I guess maybe one reason I have difficulty relating to this is that I know I have had discussions with Mr. McCallum in terms of various events that have taken place. It's really just been in the last few days that I've had this ~~many~~^{substance} substance. But I'm sure I met Mr. McCallum prior to that. I'm not sure does Mr. ~~is~~ ^{is} Mr. ~~is~~.

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C.B.

Mr. Genest: Mr. Chairman there is an innuendo
here which I resent very much, and I want to have ~~the~~ ~~record~~ ~~this~~ ~~minute~~ ~~to~~ ~~consider~~ ~~a~~ ~~suggestion~~ ~~and~~ ~~counsel~~
~~en record this minute to consider a suggestion and counsel~~
~~would have been a party to such a dealing...~~



H 953 to follow

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B.A.

H-953-1

(Mr. Genest)

to have Mr. McCallum go on record this minute, to counter a suggestion that counsel would have been a party to doctoring some evidence before this committee.

Mr. Shibley: Please, Mr. ~~Genest~~ Genest, everybody wants to use terms referable to my line of examination that, in my view, are most inappropriate.

Mr. Genest: Well, that's how I read your remarks.

Mr. Shibley: You have adopted a term "doctoring". Yesterday someone suggested that my question indicated amazement, I think. I think my line of examination of this witness has been very carefully put in terms of instructing him as to why I am asking him the questions I am asking and in light of the evidence that Mr. Gathercole gave, namely, that he was providing it on an informational ~~a~~ basis to the Premier and to Mr. Fleck, whereas in fact, it was requisitioned by Mr. Fleck of Mr. Gathercole following a very significant meeting with Mr. Cronyn, and because of the rumours then extant, I think I must persevere in the line of questioning I have taken. Now, if the witness gives certain answers, they may well be exculpatory of a person. On the other hand, if he gives other answers they may be to the contrary effect. Now, I don't want to leave this without making it abundantly clear that I in no way, by any question that I am putting ~~to~~ to this witness, intend to suggest that Mr. McCallum or any ~~other~~ other solicitor, was doctoring evidence. But I, ~~at~~ at the moment, am quite prepared to test the reasoning ~~of~~ for the manner of ^{giving} evidence, of any witness, before this committee. I ^{view} ~~view~~ that to be my responsibility.

Mr. Bullbrook: I view it to be your responsibility, too.

Mr. McCallum: Mr. Chairman, can I say something now, please?

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Mr. Chairman: Yes, Mr. McCallum.

Mr. McCallum: I want to make it very clear. ~~His~~

First of all, I don't take offence at anything that has been said. I am sure that Mr. Shibley wouldn't intend to say that I doctored the evidence. I must say that I thought that that was the meaning. I am sure, having heard him that he wouldn't intend to say that and wouldn't mean that I would do a thing like that. I want to assure the committee, and I'll one time ~~be~~ a witness here if we are going all summer long, and I am perfectly prepared to swear to it, that Mr. Fleck did not speak to me with reference to this aspect of the matter until the last, perhaps, five or six days, and never at any time prior to that, in the discussions that I have had with him, did this aspect ever come to the fore with me and Mr. Fleck. The matter of the evidence that has been given by the witnesses for Hydro dealing with the creation of this memorandum of November 15th, have ~~always~~ always been and are only in my memory, those given by the Chairman until such time as I had a discussion with Mr. Fleck, I think it would be within the last five or six days, sometime perhaps towards the end of last week, and not before that, I give you my absolute assurance. So you need have no concern whatsoever about the prospect that anyone I know and have spoken to about this evidence, had any reason to even know that Mr. Fleck had requested this of them, and I am sure that Mr. Gathercole when ~~he~~ he is giving the evidence will explain to you in his own words, and I'll not try and ~~put~~ put the words into his mouth now, what he understood about it, or he remembered it at all, if he remembered it.

Mr. Shibley: Mr. McCallum, I only suggested that you limit yourself to your own personal position in respect of this matter because, of course, I think witnesses who are involved should speak for themselves. At the moment, Mr. Fleck, I want to return ^{to} you in these terms.

Mr. Genest: Mr. Chairman, I have one more comment. Would Mr. Shibley ask Mr. Fleck to just put this matter to rest,

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(MR. Fleck)

if he was in communication with any other person connected with Hydro about the matter we are dealing with?

Mr. Shibley: Were you?

Mr. Fleck: No.

Mr. Shibley: All right. And I accept that you were not, Mr. Fleck, but do you have any knowledge or information that anybody else was in communication with Hydro in this respect?

Mr. Fleck: No.

Mr. Shibley: You see, my difficulty, Mr. Chairman, is this. If - and we are back to one of these situations respecting which, ~~if the information which was presented originally~~

(Tape H-954 follows)

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PLG

(Mr. Shibley)

~~the information was~~ if the information ^{which} was presented originally was complete and accurate, the whole line of examination might have taken a different course. I ask you to put your minds in juxtaposition to this set of circumstances. If Mr. Gathercole on May 31 had said, "The memorandum of May 15 had been asked for by Mr. Fleck in a telephone call on November 9 of that year." The next question necessarily was; "Well, why did Mr. Fleck require the production of such a document?" I would have been led to-- what we have ~~now~~ now had to develop in evidence, in the most difficult manner possible in the sense that I have had to come at it from the back door, I have had Mr. Cronyn mis-state-- I am not suggesting intentionally, but he ~~has~~ the combination of what Hydro has done in respect of that document, plus the evidence of Mr. Cronyn as to the time of his meeting with Mr. Fleck, was steering me away from the actual time of the communication between you and he, and also steering me away from the circumstances that existed at that part of 1972. You understand that Mr. Fleck?

Mr. Fleck: Yes.

Mr. Shibley: And I want the committee to understand it, because this is the sort of thing, as I say, that has dragged this thing on and when I persevered to inordinate lengths, what it may appear to be, ^{it is} it is for the reason that it is the only way I seem to be able to get an accurate conclusion as to what went on and when.

Mr. Chairman: Mr. Hodgson, you had a question?

Mr. R. G. Hodgson: I wonder if Mr. Shibley would ask the witness in this connection, I believe he operates somewhat in a political atmosphere, therefore.

Mr. Shibley: Who?

Mr. R. G. Hodgson: Mr. Fleck.

Mr. Shibley: Oh, thank you.

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Mr. R. G. Hodgson: I would, therefore, think that it is quite reasonable--the Globe report on November 2, I believe, in regard to the Fidanam affair would trigger anyone political into examining in depth another building at the same level.

Mr. Shibley: What is your answer to that, Mr. Fleck?

Mr. Fleck: Sorry. There are a lot of buildings that the government does. To the best of my recollection, that had nothing to do with triggering this. ~~I would~~ in my neat little mind set that off in another category.

Mr. Chairman: Mr. Shibley, just for my help here, and it may help one or two others too, you read earlier Mr. Gathercole's testimony that you felt was in conflict. Now, what particular paragraph -- do you have it in front of you? I think you do.

Mr. Shibley: I had read from page 212-3 on to 213-1.

Mr. Chairman: Now is there any particular statement in there, or just the placing of it all together?

Mr. Shibley: Taking it all in context, I asked him-- I will go back a little earlier and reread Mr. Gathercole's evidence.

Mr. Chairman: He refers to questions being read in the House. I am just wondering how inconsistent that in itself might be.

Mr. Shibley: On page 212-1, about three-quarters of the way down the page,

"Mr. Shibley: The next document I would like tendered to the witness is a letter dated November 16, 1972, from Mr. Candy to Mr. Gathercole. I guess it is a memorandum. I ask it be made Exhibit 113. This memo is a short memo reading; *quote*:

"Attached herewith for your information is a copy of a report dated November 15, concerning the new head office building

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(Mr. Shibley)

"which I have submitted to Mr. James Auld in order that he may be well informed of the situation prior to the opening of the Legislature. I am going to discuss ~~the~~ it with Mr. Auld in ~~his~~ his office on Monday, May 20 at 2:30 p.m. ~~and~~

"Mr. Gathercole, I take it that the report which is referenced in this memo is the report of November 15, which was Exhibit 112.

"Mr. Gathercole: Yes.

"Mr. Shibley: And would you please enlighten us as to the reasoning behind submitting that report to Mr. Auld?


"Mr. Gathercole: There had been, as I said, questions raised about it, and therefore it was advisable that we inform Mr. Auld, who ~~was the minister~~ was ~~then~~ the minister who would be reporting in the Legislature on Hydro matters. Mr. Candy was asked to fill in Mr. Auld and inform him about the situation.

"Mr. Shibley: Similarly, on the same date, did you yourself send a copy of that report to Premier Davis under ~~cover~~ of a letter as I say, November 16, 1972?

"Mr. Gathercole: Yes I did.

"Mr. Shibley: I am producing that letter as the next exhibit, Mr. Chairman, ~~Exhibit 112~~

Tape H 955 follows



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fvk

(Mr. Shibley)

~~November 16, 1972.~~

~~"Mr. Gathercole: Yes, I did."~~

~~"Mr. Shibley: I'm producing that letter as the next
exhibit, Mr. Chairman."~~

"Mr. Chairman: Exhibit 114.

"Mr. Shibley: Members of the committee, I'm not giving you the supplementary copies; they are identical to that of November 15."

I was wrong, I might say in that respect, as I'll clear up later.

"All I can tell you is that, as I say, some of the material is given later dates, but it is identical in content."

The report itself is, the appendices are changed as we'll see.

"This letter to the Premier; Attached is a copy of a statement prepared by Mr. Candy, commission architect, which sets out essential elements of our new head office building very succinctly.

"You will see from Mr. Candy's calculations that proceeding in the manner we propose would provide an annual saving to Hydro estimated by Mr. Candy at \$2,460,907, compared with the situation that would prevail operating in rented and ~~xxxxxx~~ scattered premises.

"This does not take into consideration that at the end of 30 years Hydro would own the building clear of any financial encumbrance!"

"Now then, again, the purpose behind this communication with the Premier, Mr. Gathercole, was what?"

"Mr. Gathercole: Well, again, there were questions emerging in the House and, understandably, I ~~think~~ ^{felt} that he ~~wasn't~~ should be in a position to comprehend what we were doing.

"Mr. Shibley: All right. The next ~~down~~ document is one dated November 23, 1972.

"Mr. ~~Dr~~ Bullbrook: Excuse me, Mr. Shibley, just while you're on that, just one short question; Why would a copy go to Mr. Fleck?

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"Mr. Gathercole: Well, a copy ~~was~~ would go to Mr. Fleck as being the executive assistance, the director to the Premier, so he would also be ~~updated~~ apprised of what the information was."

Now, that's the critical question and answer, if I may say, and there's no hint in that answer of the earlier request by you to him that "you prepare that document." You agree with that, do you Mr. Fleck?

Mr. Fleck: I agree with that.

Mr. Shibley: Yes. What I'm concerned about is to understand why Mr. Gathercole failed to reference the fact that the document was brought into existence at your instance.

Mr. Fleck: Am I allowed to surmise to this?

Mr. Shibley: Yes.

Mr. Fleck: I would say that I'm - I don't know what went on within Hydro but I wouldn't necessarily have drawn the conclusion that the document was prepared ~~a~~ directly as the result of my request. I would think that most likely I would get a copy because of my request and it might be that that document would come to me because of my request, but it may be that they were preparing the document in any event for some other reason and that is so.

Mr. Shibley: No, but Mr. Fleck, the question ^{that} was put by ^{to} Mr. Bullbrook ~~by~~ Mr. Gathercole was? "Why would a copy go to Mr. Fleck?" Surely, the answer should have been because he had asked for a narrative.

Mr. Fleck: Sure. No, that ~~is~~ would be a question of why it went to me rather than why was the document prepared.

Mr. Shibley: Yes. What I'm concerned to know is whether you can contribute anything as to the reason for Mr. Gathercole making the ~~answer~~ answer that he did?

Mr. Fleck: I can't contribute anything.

Mr. Shibley: You know of no circumstance which would lead him to fail to disclose to this committee that the reason that he sent you a copy of that narrative was because you'd asked that one be prepared?

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Mr. Fleck: No, other than forgetting it.

Mr. Bullbrook: I must say that I really think, in fairness, that we are presuming something through counsel. It might well be coincidental that the preparation of that document resulted, not only or if at all, ~~it~~ might be that Mr. Candy was preparing the document for collateral reasons and it was coincidental. I'm saying that there's no valid explanation for it coming from this witness as to why Mr. Gathercole, other than his lack of recollection - which seems to be infectious in this hearing, why his lack of recollection in the phone call to ~~Mr.~~ Mr. Fleck, but I do say that it might well be that the evidence from Hydro could substantiate if Mr. Candy was working on it for the other reason.

Mr. Chairman: I think the thought is to recall Mr. Gathercole on that point and let him explain it.

Mr. Shibley: Thank you Mr. Bullbrook and Mr. Chairman. I wanted to be sure, however, that if this witness could contribute anything in this area that he would provide it.

Mr. Fleck: I can't.

Mr. Shibley: Particularly, I'm concerned, Mr. Fleck, to know that you have had nothing to do and no one in the Premier's office has had anything to do with ~~the manner in which~~

(Tape H 956 follows)

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5.20 - 5.25 pm

H 956 - 1

AA

(Mr. Shibley)

~~no one in the Premier's office has had anything to do with~~
the manner in which Mr. Gathercole testified, as I have outlined to you.

Mr. Fleck: No, nothing whatsoever.

Mr. Bullbrook: ~~But~~ Before you proceed, I want to say something, if I may, to you, Mr. Chairman. This is a very difficult task - and I'll just take two or three minutes - a very difficult ~~task~~ task for our counsel because he says, and I ask us all to be indulgent in this respect. On some of the occasions, he has been called upon, you as a lawyer will recognize this, to go through the back door because the front door wasn't open and I think we ~~had~~ have to recognize that situation. I am not going to catalogue them here but you know that we have been in those circumstances.

Mr. Genest: I am concerned, Mr. Chairman, that the back door may be inferred to avoid the front door - it may ~~have~~ have been inferred to have been sort of locked by Hydro and I really ~~think~~ think that is quite an improper - if that's what is meant, and it may not be what is meant, but ~~that~~ that - it is an insinuation that I would resent.

Mr. Bullbrook: Mr. Genest, I don't want to insinuate, nor do I want to be at all inflammatory, I assure you, nor do I mean any innuendo. I speak directly. But you can recognize the problem our counsel has. Hearken back, for example, hearken back, for example, if you would, to the fact that the letter from Smith to Cronyn never existed. Right?

Mr. Shibley: That's right.

Mr. Bullbrook: And hearken back - no let me finish for a moment - hearken back to the fact that this morning, Mr. Hodgson directly asked Mr. Fleck if there was any conversation - I am sorry - he directly asked Mr. Fleck

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H 956 - 2

AA

(Mr. Bullbrook)

if there had been any conversation between the Premier and Mr. Gathercole and Mr. Fleck said no and he didn't recall this and I can understand that. The point is that then - and my colleague, Mr. Gaunt, asked whether any discussion between Mr. Fleck and - who is his second in command?

Mr. Gaunt: Mr. Rowan.

Mr. Bullbrook: Mr. Rowan, ~~the~~ connection with this matter, Mr. Fleck's evidence was no. And then produced in the afternoon is this. And I am not suggesting for a moment that Mr. Fleck - as a matter of fact, I am ~~not~~ suggesting quite the contrary that Mr. Fleck would ever attempt any misadventure with this committee. I know that to be a fact, sir. Your integrity, as far as I am concerned, in this connection, is beyond reproach. But this is the problem that our counsel is faced with continuously and this is why when we talk about the back door approach, the back door means that we have to revert ourselves back entirely and begin a new line of examination in the context of evidence that has been given to us that hadn't been given previously. That's the only thing. I want to come, not to the defense of our counsel, he doesn't require it, let alone from a person like myself, but this is the problem that he has faced and he has to ~~under-~~take sometimes in examination with ~~the~~ vigour, and sometimes of an almost indelicate nature.

Mr. Chairman: Mr. Shibley, I assume that you have quite a bit of examining yet.

Mr. Shibley: Yes, I do.

Mr. Chairman: And I assume that some other members of the committee may wish to examine Mr. Fleck. I indicated earlier that I did not think it fair to have one witness in the box all afternoon, morning, and then go on to evening as well. Now, I am asking Mr. Fleck whether, first

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H 956 - 3 AA

(Mr. Chairman)

of all, he ~~should~~ would want to go on this evening or whether he ~~would~~ would like a break. Secondly, whether he has any ideas on taking a recess now; presumably, we would break at ⁶~~5~~ in any event. Now, if you want to recess now, or whether want to come back this evening, or would ~~just~~ just as soon come in fresh tomorrow morning, I think maybe I should make that decision that you should come in fresh tomorrow morning. ~~that~~.

Mr. Renwick: Mr. Chairman, may I just speak to what you said? I agree entirely that if Mr. Fleck would prefer to go over until tomorrow morning, I would ~~withdraw~~ withdraw. I would like to express to Mr. Fleck the desire of the members of the committee who are in town and all of us who have made arrangements last week to sit during the evening, that if it is possible and feel it is an undue or unnecessary strain, that we do continue tonight, because our task is lengthening out and we want to try and get it over with.

Mr. Fleck: I don't feel the need for a recess at ~~this~~ this point in time. ~~This~~ This is a note from my wife.

Mr. Chairman: Is this read into evidence, Mr. Fleck, or is it a private note?

Mr. Fleck: This does have to do with an engagement that we have this evening and ~~heartily~~ heartily reminding me of that. ~~I just read it~~

H 957 - 1 follows

(Mr. Fleck)

~~and this does have to do with an engagement that~~
~~questioned~~

~~_____~~
~~_____~~ → I must admit that I would prefer if^{to} you are allowing me that opportunity, and not trying^{to} in any way delay the work of the committee to have the evening off, if I may. I would say that if it's helpful and necessary and if we proceed and it's possible that I am still here tomorrow afternoon at this time, I would make an effort to stay through tomorrow evening to try and get through.

Mr. Chairman: Well, let's proceed now and we will terminate at ~~5~~ or shortly after.

Mr. Walker: There is an alternative, Mr. Chairman. ~~_____~~ There are other witnesses and it has been our course of action to interrupt ~~witness~~ witness after witness anyway. Would it be feasible to call another witness during the interruptions?

Mr. Chairman: I pass that to Mr. Shibley.

Mr. Walker: ~~_____~~ Well, the members were prepared to sit tonight and we are still fairly fresh.

Mr. Genest: Well, Mr. Chairman ~~==~~

Mr. Fleck: I am sorry, I missed ~~==~~

Mr. ~~Gen~~ Genest: Mr. Gathercole is going to be away tomorrow and ~~also~~ also Monday, and in view of what has just been stated, I would like to have Mr. Gathercole called at the earliest possible opportunity to deal with the subject matter of the last questions, and if the committee wishes to sit this evening, Mr. Gathercole will be available this evening.

Mr. Chairman: Well, maybe we can sit for a short while with Mr. Gathercole this evening, Mr. Shibley.

Mr. Renwick: Mr. Chairman, let's ask Mr. Shibley the question Mr. ~~Walker~~ Walker asked as to whether or not there is another order of witnesses or whether he would prefer to go

→

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(Mr. Renwick)

on in his way. *As far as I'm concerned we are in Mr Shibley's hands.*

Mr. Shibley: Well, let me explain my situation to the committee. For the last number of evenings while this committee is in session for ~~the~~ certain ~~the~~ hours of the day, I, in the periods interrupting your sittings, have had the job of investigating and preparing the brief for the examination of witnesses and responsible for introducing their witnesses, and as Mr. Bullbrook says, sometimes we reach areas like we have just gone over where I don't take any delight, I might say, in having to cover the territory that confronts my mind.

I have been provided by Mr. Fleck as recently as today with certain information, for example, that would help me to prepare Mr. Gathercole's examination. Much of the evidence that Mr. Fleck is giving now, and the evidence which Mr. Cronyn gave, will be reviewed by me in the preparation of the further examination of Mr. Gathercole.

Now, I can tell you, I am just sort of one jump ahead of this committee in terms of preparation and I have not really applied my mind to the topics that require review with Mr. Gathercole. I know the salient ones, but to say that I have been able to zero in on the evidence as I have with all these witnesses, I am not right now able to do that, and one of the great advantages -- it may not be an advantage to me ~~in~~ in the overall, but it does afford me an opportunity when we are not sitting in the evening to ~~prepare~~ prepare for the next morning and afternoon. When we go three periods of time, there is ~~literally~~ literally no interruption, therefore no opportunity. Now, I, just as an example, have now got the chronology of dates of meetings between the Premier and Mr. Gathercole and I would like to examine that ~~in~~ against the background of the documents and his earlier testimony, so I don't intend to be - and I know the committee doesn't intend me to rush my preparation.

I would like to rush the examinations but the preparation is what is much more key to me, so to suggest, for example, that Mr. Gathercole now park in the witness box and I

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(Mr. Shibley)

start with him and then carry on this evening with him, without benefit of preparation, I would not feel satisfied that I had done as complete ~~work~~ a job as I might want to do.

As for other witnesses this evening, I really think that whereas it is easy to interrupt the evidence of certain people and not lose step because their evidence, really you can compartmentalize it, ~~I really think that~~

(H-958 to follow)



H-958-1

(Mr. Shibley)

I really think we should finish with Mr. Fleck first before we go to Mr. Gathercole, and I don't really think it is useful to interrupt his evidence for some of the other evidence that might be available. I would much rather, if we are going to interrupt his evidence, to use the time to further my own review, even as for his own examination, and I don't want to worry Mr. Fleck, in that respect, but I have been confronted with documents by Mr. Fleck today that I would like to think about referable to the continuation of his examination; so that, I don't know how the rest of you feel, but my inclination is just to adjourn until tomorrow morning.

Mr. Deans: Mr. Chairman, before you say something, I want to tell you something. Yesterday when I suggested that we ought not to sit

Mr. Chairman: You are going to tell me I told you so.

Mr. Deans: No, I'm going to tell you something. I have as most people have made alternative arrangements again. And this is really quite ~~we~~ ridiculous. I attempted yesterday to point out that it was stupid to sit in the evenings. Now for goodness' sake listen.

Mr. Chairman: All right. I appreciate what you are saying. I am at the guidance of the committee.

Mr. Shibley?: Just before you adjourn.

Mr. Chairman: Well I wasn't going to adjourn now, I was going to carry on until ~~the~~ But we are all trying to get the work done here, and I think the ~~was~~ thought was, and I said it yesterday in fairness, Mr. Deans, that if we had the same witness in the morning and at noon I didn't think we should go on until the evening. I really didn't expect Mr. Fleck would be in morning and afternoon, but we have had some interruptions and some difficulties today as we all realize. Now if the committee does not want to plan to meet tomorrow night now is the time to say so.

Mr. W. Newman: Mr. Chairman, may I say something. I think wherever feasible, and tonight is not feasible, as you said yesterday wherever feasible we should try and sit in the evenings. We all have commitments in our riding work. I have commitment, with departmental

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(Mr. W. Newman)

work, but I think it is important that we get on with this as long as we are guided by you and our counsel, if he feels he could do it in the evening, where~~ver~~ever feasible I think we should.

Mr. Bullbrook: I wanted to show my chameleon-like attitude ^{expedite} that is I advocated greatly sitting in the evening to ~~expedite~~ our completion of this, but I don't really see the merit of it. I think really, not only the ~~onus~~ on counsel in connection with future preparation, but the actual ~~onus~~ on the committee, the physical and mental load of carrying ~~on~~ for that time. I have ^{noted} ~~known~~ myself that my temper shortens, that my

Mr. Chairman: I thought your temper was always short, Mr. Bullbrook.

Mr. Bullbrook: Maybe it is. It could shorten ~~even~~ even ^{shortly!} But our ability to grasp things and to recall dates, really leaves something to be desired even at 5:30 at night. I myself think probably we perform a disservice in attempting to. However, again I just want to point out that I was an advocate of sitting at night and I think probably that that wasn't an appropriate advocacy.

Mr. Deans: May I say something? I would rather have a firm decision. I don't speak for any other member ~~by~~ myself. But I have to try and arrange my life. And that involves whether I am going to be in Toronto or whether I am going to be elsewhere. Now I have been cancelling engagements and switching them in order to try and be here. If you are going to sit in the evenings, say you are going to sit in the evenings. If you are not going to sit in the evenings, don't sit in the evenings, and then we can plan to live what may well be something reasonably normal outside of the hours of this committee

Mr. Chairman: Well you are talking about the convenience of the members of the committee, ~~and~~ I am also conscious of the convenience of the members of the public and witnesses and others.

Mr. Penwick: Mr. Chairman, may I make a comment on a slightly different aspect of the same matter? There is no doubt in my mind, and I haven't been around all that long, but this is a unique committee in one sense, and I don't ~~ever~~ recall counsel for any committee that I have been involved in being subjected to the

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(Mr. Renwick)

~~and~~ I think that the ~~and~~ burden on Mr. Shibley, and through him on Mr. Bell, has been both unique and inordinate, and I would like to discuss it with him if there is anything that can be done, fine, because there is no question in my mind that if we go on the way we are going, that within the next week or 10 days we are simply going to have to adjourn for a period of time because I am not prepared to allow Mr. Shibley to run himself into the ground for the purposes of this committee.

Mr. Chairman: Any other comments?

Mr. Shibley: Mr. Renwick, I can answer that immediately in terms of needing additional ^{counsel} ~~counsel~~. An additional ^{counsel} ~~counsel~~ would be completely useless to me and I say so for this reason; that ^{Counsel} ~~counsel~~ conducting an inquiry into the evidence and presenting the evidence has to be completely briefed as to all aspects of the evidence such that--you see, we have had a classic example of it with Mr. Fleck today. When he read the documents in the Premier's office, ^{he} ~~he~~ didn't recognize something to be relevant which anyone in this committee would have recognized and certainly I would have recognized that would be significant to me, ~~and~~ that is the problem of bringing in another person. He doesn't really add anything. My own approach to taking any ^{brief} ~~brief~~ is that I want to look at every piece of paper myself ultimately and make up my own mind as to its significance and how it should be employed, and whereas I need Mr. Bell logistically and to keep my sanity in terms of discussing things with him and having him go through transcripts and pinpoint things for me, I think adding another person just doesn't add anything to the production at this end of matters. What I do require, and I will say this in support of what Mr. ^{Gods} ~~Gods~~ ^{on} ~~on~~ I am getting dense.

Mr. Chairman: Mr. Renwick? Mr. Deans?

Mr. Shibley: ^{Mr. Deans said it.} ~~Talking~~ You see, whether it is to save

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(Mr. Shibley)

your sanity or to provide me with an opportunity to prepare in the intervals ~~between~~ between evidence, the latter being a matter of my choice, I don't really think that sitting evenings is worth attempting. I think that the combination of my needing interruptions to prepare and all of us needing some time to be refreshed, dictates in favour of at least not sitting evenings. We are going to sit four days a week now and a morning and afternoon session, the hours even within that period of time exceed anything that would take place in a court of law; and I might say, because I am conducting all the examination in ~~the~~ here, I am not able to sit back while somebody takes a crack at my witness ~~in~~ in cross-examination. I am doing double ^{duty} ~~work~~.

Mr. Genest: ~~I'd be glad~~ to do that ~~!~~!

Mr. Chairman: You've ^{ve} got lots of offers here, Mr.

Shibley.

Mr. Shibley: ~~I know I'd~~ ^{elicit that response} ~~turn out~~

Mr. Chairman, there is one thing that concerns me a little bit, ~~and~~ I am sitting here reflecting very carefully upon what Mr. Genest has said, and the last thing I want to do is be unfair or create wrong impressions referable to anyone on the Hydro side, who have been more than cooperative. I am ~~now~~ concerned that my last line of examination of this witness may lead people to jump to conclusions pending the completion of the evidence. I felt it essential to put the questions to this witness around whom much ^{turned} ~~turned~~ in this area of examination. I want to go on record and be perfectly understood that at the moment I am simply conducting an inquiry as to whether or not the failure to disclose the circumstances for the creation of the November 15, 1972 document was simply inadvertence, oversight and innocent, ~~where~~ ^{where} on the other hand was in fact part of a course of dealing with matters such that those circumstances would not be brought ~~to~~ to the attention of

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this committee. I am concerned about it. I have got Mr. Fleck's position and the position of the Premier's office on record, I intend to get Hydro's position a matter of record.

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(Mr. Shibley)

~~Mr. Shibley: I have just spoken to Mr. Gathercole. He can cancel his arrangements and place himself at the disposition of committee, if that is going to be of assistance.~~
We have got Mr. Cronyn's testimony already a matter of record as to timing, and so on, and again, it is another issue about which this committee ultimately may, at least, inferentially, have to make a finding. I was most anxious not to close off today, particularly if Mr. Gathercole is not going to be available until Tuesday.

Mr. Genest: Mr. Shibley, can I help for a minute? I have just spoken to Mr. Gathercole. He can cancel his arrangements and place himself at the disposition of committee, if that is going to be of assistance.

Mr. Chairman: I think that will be of help to us.

Mr. Shibley: All right, well, then, I will go on the basis that I will prepare his examination tonight.

Mr. Genest: I did want to say something, though, in support of Mr. Shibley; I think you have to be in this game for a while to realize the tremendous amount of pressure that's on in ~~preparing~~ ^{preparing} this case. My own hours have been, I think and my family thinks, exorbitant, and the burden on him has been twice that on me. I certainly would support on humanitarian grounds ~~prepared~~.

Mr. Bullbrook: You wouldn't treat a dog like that.

~~Mr. Shibley~~ Mr. Genest: No, I just don't ~~see~~ see how he can do it. I marvel ~~a~~ every morning how he can come here with a witness prepared, with material prepared and questions prepared, and if you do it in the evenings you are keeping the man up until ~~four~~ ⁴ and ~~five~~ ⁵ in the morning.

Mr. Chairman: You know, Mr. Genest, I have been critical of Mr. Shibley as being too thorough, and that's a good criticism, I suppose, but maybe if some of us thought we worked him 24 hours a day he might not be quite so thorough.

Mr. Shibley: I had that suspicion.

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Mr. Chairman: I think he's beating ~~us~~ ^{us} on ~~it~~ ^{it}.

And that was our wish in working the extra hours and I know there is no comparison with the load that is on the committee members as there is on the counsel members, but I think we ~~for~~

Mr. R. G. Hodgson: Well, there are some of us who would question that.

Mr. Chairman: We have indicated that we would try it and have ended up in difficulties every time, and I think maybe we had probably best work the two periods. Mr. Newman, again.

Mr. Wm. Newman: At the risk of getting my head cut off, Mr. Chairman ~~and~~

Mr. Chairman: No.

Mr. W. Newman: If we are not going to sit evenings, would you consider Friday sittings?

Mr. Chairman: I think that's a reasonable request.

Well, all right, that's the difficulty of trying to be a chairman. You look and catch nods of heads here, and winks of eyes, and everything else.

Mr. Bullbrook: ~~Make~~ ^{You} make up our minds for us.

Mr. Chairman: All right. We will only be meeting in the daytime, and I think, on this basis, we should go back to Monday morning, however. It was on the basis that we would work Monday nights that we wouldn't work Monday mornings.

So we will work mornings and afternoons, Mondays, Tuesdays, Wednesdays and Thursdays. Now, we have 15 minutes left. Do you wish to proceed at this point?

Mr. Shibley: I think Mr. Fleck should get ~~back~~ ^{home to his wife}

Mr. Genest: One more question. Will it be the intention to call Mr. Gathercole immediately after Mr. Fleck?

Mr. Shibley: YEs.

Mr. Genest: I would appreciate that because of the importance of matters you have raised.

Mr. Shibley: No, I intend to do that, Mr. Genest.

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Mr. Chairman: Then, we will hope to see you first thing in the morning, Mr. Fleck, and then following that, Mr. Gathercole, ~~and~~ We are adjourned until 10 a.m. tomorrow morning.

The committee ~~is~~ adjourned at 5:45 o'clock p.m.

APPEARANCES

Committee members:	J.N. Allan
	J.E. Bullbrook
	I. Deans
	M. Gaunt
	L.C. Henderson
	R.G. Hodgson
	W. Hodgson
	J.P. MacBeth (Chairman)
	W. Newman
	J.A. Renwick
	G.W. Walker
Clerk of the committee:	Paul Moore
Committee counsel:	R.E. Shibley, QC
	J.P. Bell
Ontario Hydro counsel:	Pierre Genest, QC
	James McCallum, QC
Canada Square Counsel:	Douglas Laidlaw, QC
	Blair Cowper-Smith
Chief executive officer, Office of the Premier:	J.D. Fleck

List of exhibits introduced during this sitting appears on last page.

INDEX TO EXHIBITS

<u>Exhibit</u>	<u>Page</u>	<u>Description</u>
178.	928-3	Letter - May 16, 1972 - From G. E. Gathercole to Hon. W. G. Davis re Ontario Hydro Head Office Building

